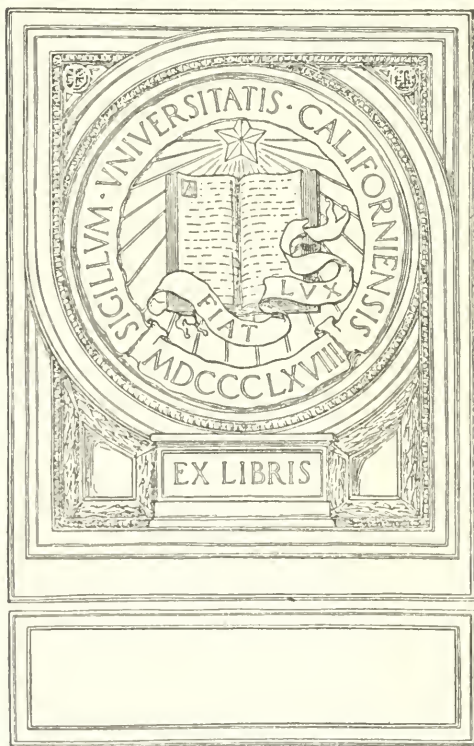




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WARDS OF THE STATE



# WARDS OF THE STATE:

AN UNOFFICIAL VIEW OF  
PRISON AND THE PRISONER  
BY TIGHE HOPKINS

Author of "The Silent Gate: A Voyage into Prison," etc.

BOSTON  
LITTLE, BROWN AND COMPANY

1913



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TO  
MY WIFE AND MAY



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# WARDS OF THE STATE

## PART I

### CHAPTER I

#### INTRODUCTORY

IMPRISONMENT, its effects upon the prisoner (in prison and after prison) and the prejudice it creates against him in the public mind: these are my chief topics. With imperfections of which I am extremely conscious, the book represents a study of some years' duration, a study rendered difficult for the onlooker by this fact above others, that he does not view the life of prison from within. His advantage (as an onlooker), perhaps his sole advantage, is that he should be able to approach the subject with no excessive bias on the one side or the other.

With the criminal, as a criminal, these pages are not peculiarly concerned. He is here in the main regarded as a person suffering imprisonment. Crime, criminals, and criminal psychology are at this day the subjects of a fresh and special literature, ranging in space from Madrid to New York, from Graz in Austria to Los Angeles in California. From the newest collection of works occupied with these questions, the "Modern Criminal Science Series," an

enterprise of the American Institute of Criminal Law and Criminology, I take this note from the general introduction :—

“ Is the difference between the criminal and the just an anthropological difference, to be recognised by structural and functional peculiarities ? Is the criminal marked off from other men by the shape of his head, of his ears ; by his physiognomy, by the length of his arms, and his physique generally ; by his functions, his mode of speech, the reaction of his nervous system, and his mental peculiarities ? Is he a criminal born, the product of heredity alone ; or does he owe his criminality to the influence of his circumstances ? If he is so born, is his criminality due to his parentage and immediate ancestry, as vicious, depraved, diseased, criminal, drunken, or what not ; or is he a throw-back, the reproduction, after many intervening generations, of some more or less remote ancestral form, long superseded by more developed types of men ? If his criminality is the result of his circumstances, what is the criminalising factor in the circumstances ? Is it geologic, climatic, geographical, or social ; and, if social, what is the effect of different social factors on the production of crime ? What is the effect of density of population, of grade of civilisation, of sanitary and insanitary conditions, of employment and unemployment, of education, imitation, exhortation ; of the unequal distribution of wealth, of peace and war ? How should crime be detected ; what methods should be employed for detecting, identifying, and registering criminals ? How should they be tried when caught ? Should

the practice be litigious as in English Courts, or inquisitorial as in those of countries in which the Common law does not prevail? How ought the criminal to be punished and how induced to reform? Ought he to be punished at all, and if so what is to determine the severity, what the methods, of punishment? Lastly, how is crime to be prevented? How are children to be trained so that they may not become criminals? How are those who have joined the ranks of criminals to be persuaded to desert them, and live upright lives? And by what means is crime to be made so difficult or so unremunerative that it is not worth while to commit it?"

Manifestly, this is an argument suited rather to encyclopædias than to the mere octavo.<sup>1</sup>

Again, it is with regard to imprisonment and its effects as witnessed in our own country and at the present day that I have for the most part framed my plan. A comparative study on a properly extended scale would have added many elements of the picturesque, heightened and diversified the colours of the melancholy raree-show of prison. It would

<sup>1</sup> It is to an Encyclopædia, indeed, that the American Institute of Criminal Law and Criminology seems committed. The purpose of the series is to make available in the English language the most useful treatises on modern criminal science now extant in the Continental languages. The first volumes, should their reception warrant it, will be followed by others covering all the primary aspects of Criminology, and endowing us with nothing less than the results of a generation of European thought. These first volumes, in the order of publication, are: "Criminal Psychology," by Hans Gross (for many years the master-mind among investigating magistrates in Europe, and now professor of criminal law in the University of Graz); "Crime: its Causes and Remedies," by Cesare Lombroso; "Modern Theories of Criminality," by C. Bernaldo de Quirós; and "The Individualisation of Punishment," by Raymond Saleilles, professor of comparative law in the University of Paris. London, Wm. Heinemann.

have been profitable, too ; suggesting things to shun and things to imitate. But, adequately done, it would have tended to remove attention from penal problems of our own ; and, as I have reconnoitred prisons nowhere save at home, it would all—in this instance—have been at second hand.

## II

Consider for a few moments a little of what the travelled inquirer, bent on examining and contrasting the prison systems of the world, would have to pack his notebook with. A trip to Australia could not well be pretermitted : New South Wales, for instance, is showing us, by contrast, how appalling were the blunders of Botany Bay. Sooner or later he must look in on China, for this country has now joined the International Penitentiary Congress. Some Chinese gentlemen, on their way to the Congress at Washington the other day, were conducted over Wornwood Scrubs Prison. They did not altogether like it. They thought the prisoners looked “too happy.” Now, what with boiling<sup>1</sup> and burning at Smithfield, pressing to death at Newgate, tearing asunder by horses,<sup>2</sup> stoning to death in the pillory, whipping to death at the cart’s tail, disembowelling at Tyburn, and the torments of the thumbscrew and the rack, we have not always, in our recognised and legal penalties, been a very poor second to China. We have run her to a neck on the post. But if at this day the student from the West should take China on his

<sup>1</sup> In our penal history there are two authentic instances of boiling alive. One of the victims was a maidservant. Pike’s “History of Crime in England.”

<sup>2</sup> Marks’s “Tyburn Tree.”

course through the East, he would not be long in realising what the delegates to Washington meant when they recorded their impression at Wormwood Scrubs that the prisoners looked "too happy." In Japan (as an instance to be offered in another chapter may persuade us) he would find something to commend.

But there would presently be Europe to traverse in all her parallels. My friend Mr. G. H. Perris has discovered to us, in "Russia in Revolution," the nightmare of the North. Prince Kropotkin, most even-handed of publicists, who (though he has endured imprisonment for his politics, both in his own country and in France) seldom, if ever, permits himself the luxury of invective, has issued to our own nation an appeal on the state of prisons in the empire of the Czar.<sup>1</sup> The terrible facts with which, from cover to cover, this pamphlet is crammed could easily have been presented in a style more dramatic and alluring. All the emotional arts that a writer might have at command, and those more especially of persuasion and denunciation, could be effectively and quite fairly employed in a statement of the case against the existing bureaucracy in Russia. These arts Prince Kropotkin has scrupulously avoided. He has spoken simply from his brief—but the brief rests upon realities which of themselves are clamant : "so deplorable that they leave far behind all that has been published in this country about the Russian prisons and exile for the last thirty years, even during the reaction that set in after 1881." Yet Russia has long been a party to the International Penitentiary Congresses, and St. Petersburg is one of the capitals in which the delegates have met.

<sup>1</sup> "The Terror in Russia : An Appeal to the British Nation."



In Prince Kropotkin's indictment reference is made to the Black Hole of the Boutyrki Prison in Moscow, where, says one who has been there, "the black patches of coagulated blood will tell you what happens."

To what extent the Black Hole in Russian bastilles is used as a mode of discipline or punishment I am unable to say; but in the matter of the *cachot noir*—the true dungeon, unvisited of any light—it has been for France to make the worst of a very bad thing; and the thoroughgoing pilgrim of prisons would need to follow Mr. George Griffith into the tropical limbo of New Caledonia. Let me at once, however, qualify this statement. The history of punishment in France is not at all more discreditable than the history of punishment in England (in neither country, I think, is it quite so discreditable as the history of punishment in Germany<sup>1</sup>); but the French, having taken to the notion of the black cell as a mode of discipline, are still somewhat downright in their working of it. Mr. George Griffith, in the volume entitled "In an Unknown Prison Land," detailing his progress through this limbo (which, like our own

<sup>1</sup> See, at any rate, "La Torture: les supplices et les peines corporelles infamantes et afflictives dans la justice allemande, étude historique," par Georges Verdène, Paris, 1906.—Possibly also some readers may remember that "Original Collection of Torture Instruments from the Royal Castle of Nuremberg," lent for exhibition by Lord Shrewsbury, and on view at Mr. Louis Tussaud's in Regent Street in the autumn of 1891. "We can see," said the *Saturday Review*, in a vivid article on the subject, "that the earlier painters of martyrdom—the Meisters Wilhelm and Stephen, of the Rhenish School, the Orcagnas and the Spagnolettos—were much more realistic than imaginative when they depicted saints simmering in cauldrons over slow fires, or being besprinkled with boiling oil and drawn under red-hot harrows. The conscientious artists only painted from the every-day experiences of their fellow-citizens, and had merely to visit the local law courts for inspiration, as our students go to Trafalgar Square or South Kensington."



New South Wales of the past, is a prison maintained by the central Government), opens for us one of the *cachots noirs* of the establishment. "Out of the corner came something in human shape, crouching forward, rubbing its eyes, and blinking at the unaccustomed light. It had been three and a half years in that horrible hole, about three yards long by one and a half broad." The natural and indispensable annexe of the corridor of the black cells is the "mad" wing of the prison hospital. What Mr. Griffith saw there may be read in his own pages.

We, in our own prisons, slowly learned that it was not wise to seek the taming of the mutineer by shutting him up in darkness. The first time I went into prison, many years ago, when the scene was no more to me than a curious masquerade, I was invited to step into the Black Hole. The door was locked, and in the blackness of night I sat on the floor of the cell and tried to think that I was in for three days of it. It was ridiculous, of course; but even in three minutes the total blindness, silence, and abstraction of the cell grew slightly uncomfortable. A prisoner confined there for three days (his allowance of bread and water reaching him through a trap-door) would rise up out of a snatch of sleep, and, ignorant of time as a man marooned, would rave and beat upon the door and walls. At Wormwood Scrubs, years later, I saw a Malay doing a brief term of penance in the modified punishment cell of that day; a scene of twilight, not wholly painful: the Malay said he preferred it to picking oakum. Cells black and half-black have now vanished from English prisons, and are scarcely missed in the way of discipline.

The examples from Russia and New Caledonia are no doubt extreme. There is a good deal of sky

between New Caledonia and Paris, and the sub-Arctic regions of the Russia of the exiles are as remote from St. Petersburg as the Zambesi is from London. But, to come back to nearer Europe, Belgium will give us a picture of imprisonment in its most rigorous modern kind. Solitary confinement extending to the term of the prisoner's natural life is possible in the prison of Louvain, some few miles from Brussels. Here is the most formidable instance of restraint under special conditions that is to be met with in our day. It is discussed afresh in a new volume by Henri Joly,<sup>1</sup> who found at Louvain, on a second visit, after an interval of eighteen years, prisoners whom he had seen and spoken with before. Seclusion in Louvain gets to the very refinement of the word. The prisoner is sealed from the world. After twenty years of this immurement, an anarhist sews handkerchiefs like a child, and cries or purrs with pleasure at the governor's praise of his work.

## III

Let us turn to America. The situation here is peculiar, extraordinary, bewildering. The past few years have given us sundry and strange revelations of the under-world of America. It is a naughty world in which good deeds are not conspicuous, and a wide world—a world too wide. There are probably regions of it not yet explored, regions perhaps still undiscovered; but through many of its mazes Mr. Charles Whibley, with the charm and precision that we look for at his pen, has led the readers of *Blackwood*. A great part of the financial world of America is evidently contained within its under-world. There may or may not be a necessary, inevitable bond

<sup>1</sup> "Problèmes de Science Criminelle."

between Trusts and corrupt practices, but the finance that Mr. T. W. Lawson denounces as "frenzied," and Miss Ida Tarbell exposes in her history of the Standard Oil Company, has its foundations in the worst kind of greed, and moves by tortuous ways. At one of the meetings of the International Free Trade Congress, a United States delegate, Mr. Franklin Pierce, brought forward concrete cases to show "how the entire Government machine was in the control of the Trusts, and how the men of wealth 'squared' not only the State Legislatures but even Congress itself." Critics, essayists, and novelists, natives of the soil, begin not so much to suggest as to insist that, under this influence and the other, the freedom that has been his boast since the days of Washington is passing from the American citizen. The spread-eagle talk that Dickens made such delightful fun of in "Martin Chuzzlewit" is no longer heard or read. Strenuous fiction—which is liable, of course, to merge in the sensational—must be taken account of, and Mr. Upton Sinclair's novels are lurid tracts in which he satirises, crudely enough, the pork-butcher of Chicago and the plutocratic "dude" of New York. Mark Twain had his fling at what were to him the sanctimonious frauds of Eddyism. In a word, a note of alarm pervades whatever is at the moment serious in American speech or writing. It is a note that returns perpetually upon this under-world, which is sometimes "Congress itself," oftener Wall Street, and most often that undefined and incalculable sphere in which lawyers of the type of "Abe" Hummel are able to spend half their lives in circumventing justice.

The purely criminal regions of America's under-world have before now been laid open to us. We have a pretty good peep at them in Josiah Flynt's realistic

work "Tramping with Tramps." A more intimate account is given in the "Autobiography of a Thief," edited by Mr. Hutchins Hapgood, which appeared about four years after Mr. Flynt's volume. Here are seen the "grafter" at large and the "grafter" who has unluckily "fallen" and is spending a season in prison. According to the candid thief, no one with money in reserve—"fall-money," as they call it—ought ever to find himself in gaol. It is mainly a matter of bribing the police, whose venality in New York, we are assured, exceeds belief. Even in prison, the grafter who has funds at command can corrupt his keepers almost to any extent. We read of an affluent convict, an ex-mayor and ex-chief of police, who had his private refrigerator in his cell, wherein he kept butter, milk, and other privy luxuries. The bribery of warders is not unheard of in our own prisons, but Portland knows nothing of the "underground tunnel" of certain State prisons in America, through which are conveyed "opium, tobacco, cigarettes, whisky, pies, fresh butter, and live pets, such as white rats and canaries."

Mr. Arthur Train, district attorney of New York, in a work entitled "The Prisoner at the Bar," speaks of a "widespread contempt" for the criminal law in America, "which if it has not already stimulated a general increase of criminal activity, is likely to do so in the future."

In a later volume, "True Stories of Crime from the District Attorney's Office," composed chiefly of narratives of cases in which the author acted as prosecutor, Mr. Train reports at length the career of that amazing lawyer, Hummel, who was probably instrumental in providing a larger number of "technical avenues of escape to wrongdoers" than anyone

else in the whole continent of America, and who is now, on his merits, in the penitentiary on Blackwell's Island. Hummel was the "high-monkey-monk of everythin'" in the under-world of New York. "Who," asks Mr. Train, "could accomplish that in which the law was powerless?—Hummel. Who could drive to the uttermost ends of the earth persons against whom not a shadow of suspicion had previously rested?—Hummel. Who dictated to the chiefs of police of foreign cities what they should or should not do in certain cases; and who could, at the beckoning of his little finger, summon to his dungeon-like offices in the New York Life Building the most prominent of lawyers, the most eminent of citizens?—Surely none but Hummel."

Yet this rascal knew nothing of law. A few law-books "lay torn and half-opened" on the floors of his office, but it was his boast that in five-and-twenty years he had not three times looked at one. Nonetheless, he and his partner, "it is alleged, made and squandered millions." He had enough law to know how to defeat it.

I have referred to Mr. Lawson's treatise on "Frenzied Finance." Events rendered opportune its astonishing disclosures. Scarcely, indeed, could Mr. Lawson have chosen a more dramatic moment at which to launch his bolt against the jugglers of American finance. The three principal Transatlantic insurance companies were in a veritable state of siege; and that devil-fish of the financial world, opprobriously known as "Standard Oil," had at last begun to be assailed. It is with "Standard Oil" and its offshoot, "Amalgamated Copper" that Mr. Lawson has his reckoning in these electrifying pages. Together they represent what the author

calls the "System," a process or device for the incubation of wealth from the people's savings in the banks, trust and insurance companies, and the public funds.

During twenty years the System has been laying America waste, plundering the nation, swallowing the substance of the country ; and as a result of its workings in this period there has grown up in the vaunted "free" republic a set of colossal corporations, in which unmeasured success and continued immunity from punishment have bred an insolent disregard of law, of common morality, and of public and private right, together with a grim determination to hold on, at all hazards, to the great possessions they have gulped or captured. It is the same "System" which has taken from the millions of American people billions of dollars, and given them over to a score or two of individuals. "Standard Oil" made fortunes almost fabulous for certain arch-rogues and highwaymen of American finance ; "Amalgamated Copper" (the story of which, as told by Mr. Lawson, involves the credit of the premier bank of America), swindled its investors out of a hundred millions of dollars, and in its wake there followed an interminable procession of bankrupts, convicts, and suicides.

In such a work as mine, however, the importance of these gigantic scandals is indirect ; and as regards what enters directly into my own scheme, the administration of prisons, it is a problem too vast and complex for minute examination in a chapter merely prefatory. We can speak of an English prison system, but we cannot speak of an American prison system. Central in our own organisation is that Commission which controls from Whitehall the



conduct of every penal institution, large and small, "local" and "convict," throughout the country. In America a kind of fog lies over the labyrinthine realm of prison; and, to an English student at least, chaos seems to reign complete. In the great London prison of Wormwood Scrubs, with a daily population of about twelve hundred, precisely the same method obtains as in the tiny prison of Brecon, in Wales, where there may be twenty-five or thirty prisoners. I turn now to a report of the Prison Association of New York. With uniform laws and uniform procedure in the State, there is no uniformity of prison administration. In fact, there are in New York sixty-two prison systems—one for the State and one for each of its sixty-one counties. Naturally, "the tramp or vagrant chooses for a winter residence the county where he can get the most comfort with the least work; turning the weakness of the system to his own advantage."

Local control and divided responsibility can hardly be expected to make for efficient discipline and uniform and economical administration. There are sixty-two prison systems in New York State because there are sixty-two centres of power and responsibility. Neither the State Commission of Prisons nor any other State authority exercises any control over discipline, treatment, feeding, education, or labour in county gaols or county penitentiaries; the only uniformity is the uniformity of idleness which "prevails in the gaols throughout the State." Says the report:—

"A sentence of two years to such a prison as Sing Sing, especially with two men in a cell, is a different and far heavier penalty than the same



term in a healthy, modern prison. The county gaols, too, vary so much in condition that a month in one is worse than three months in another. Six months in the gaol at Batavia in this State or in the penitentiary at Syracuse is a very different punishment in degree and consequence from a sentence of the same period to the gaols at Fonda or to the 'merry-go-round' at Oswego, as commitment to the King's County penitentiary, where men may be kept at work, is a different thing from commitment to the Queen's County gaol, where they are kept in idleness."

The uniformity of the penal code is therefore theoretical only, and the penalties imposed under it do not represent any uniformity in punishment or reformatory discipline. The law requiring the separation of prisoners in gaol is, says the report, totally disregarded, and the law requiring that they be put to work is a dead letter nearly everywhere.

In respect of work a change of some sort has been effected, but it can scarcely be described as for the better. I have before me two recent articles by Mr. Julian Leavitt,<sup>1</sup> in which he says: "The melancholy fact is that *there are not ten prisons in the country*"—he means, I presume, the whole of the United States—"to-day which teach the prisoner a useful trade, and scarcely one, so far as I know, which permits him to make any reasonably decent provision for his dependent family; and in nearly half of the States of the Union he is sold to a private trader, called a prison contractor, for an average of not much more than fifty cents a day. At best, the contractor is a business man; at worst, a merciless slaver. He has absolutely

<sup>1</sup> *American Magazine*, February and March, 1912.

no interest, human or other, in the prisoner ; and the prisoner has no rights which he need respect."

There is, according to Mr. Leavitt, an aspect of the case even uglier than this. The State offers to teach the prisoner a trade, and breaks faith with him. "He is immediately harnessed to a machine in the prison factory. Let us suppose that he has been assigned to the shirt or overall factory, for these are very common in our contract prisons." He presently learns that this is, for a man, no trade at all. It is a woman's trade. "*Be he ever so skilful and ever so willing, the convict who has spent several years of his life learning to make overalls or shirts can no more earn his living thereby when released than if he had been carefully 'trained' to serve as nursemaid or governess.*"

There are other prison industries, broom and brush making (a blind worker's calling), hollow-ware, binder twine, hosiery knitting, etc., at which the ex-convict can never earn a living unless he returns to prison ! As Mr. Leavitt sums it up : "These prisons profess to fit their inmates for freedom—by teaching them 'trades' which they cannot follow when released."

In contemporary records, nothing is sadder, nothing more revolting, than the exposures of San Quentin Prison and the Southern Convict Camps, in a tractate, "Crime and Criminals," issued by the Prison Reform League of Los Angeles ; but I abstain from touching upon this.

Briefly, I find in the American prisons something of the worst—but something also of the best. Their condition depends, as I gather, in part upon the character and intelligence of the "warden" in charge, and in part upon the character and intelligence of the Governor of the State. A bad, stupid, and cruel

method easily assumes form and fixity ; a good, mindful, and liberal one has excellent chances of succeeding. Under the uniform system that distinguishes our own prison service, experiment must usually get the sanction of Whitehall ; under the multifarious systems of America, an experiment so splendid and unique as the crusade of Mrs. Ballington Booth can embrace the gaols of a continent, and, in the course of half a generation, do more than a little to refashion its criminal populace. Again, nothing is more refreshing than the instances, very recently to hand, of efforts in America to bring the prisoner to himself by treating him as a man not to be denaturalised by punishment. America is, in these endeavours, a fair decade ahead of us. Two or three illustrations will suffice.

At Warrensville, a suburb of Cleveland, Ohio, Dr. Harris Cooley is treating "criminals and shirkers" with sunlight and fresh air. He had possibly been reading of Coleridge's anonymous philanthropist, who

"Gives the blue sky to many a prisoner's eyes."

Dr. Cooley has opened a building at the corners of which four large towers with wide windows let the light into the punishment cells. To these airy dungeons, which he calls his "thinking-rooms," he consigns in turn the most indocile and impenitent of his charges. They come out, the doctor says, softened and cheered and equable of temper ; and we may believe it, for this is treatment on the simplest lines of nature. These sunlit cyries of Dr. Harris Cooley may one day attract attention over here—but in all that makes for the amelioration of prisons the common sense of genius has a stiff opponent in tradition.

A glimpse now of the tactics of Mr. Thomas J. Tynan, Warden of the State prison of Colorado. Mr. Leavitt is our informant. After a reference to savage methods—flogging, stringing up by the wrists, starving “in a scientifically darkened room”—he says:—

“On the other hand, I might tell a thousand and one stories to prove the prisoner’s essential humanity under stress and strain: how, for example, his word given to a humane warden is rarely dishonoured; how, only last year, the convicts of Colorado built, without watch or guard, the most wonderful scenic road in the world, which winds its way from Cañon City to Colorado Springs, and not one convict broke his word—simply because Governor Shafroth and Warden Tynan are men among men. They say that in the convict camp of over one hundred only one man carries a gun; and he is a convict armed by the warden to keep off coyotes.”

With Mr. Tynan’s rule in Colorado we may compare Governor Oswald West’s in Oregon. It is in Oregon, says a writer in the *World’s Work*,<sup>1</sup> “that, in sober fact, a Governor telephones to the penitentiary superintendent to ask a convict to get on a tramcar and come down to the State house so that he may inquire if he wouldn’t like leave of absence to go home to his farm and save the crops.” The convict took the tram, asked and was granted the necessary leave, and went home to his farm to “save the crops.” He was “expected back at Salem in the autumn,” and it would be millions of surprises had he not returned, for Mr. West paroled him on his naked word—and how many convicts, in any quarter of the

<sup>1</sup> November, 1911.

world, have ever been taken on their word? Governor West offers us this memorable hint: that men in prison "respond to confidence and kindness more quickly, because they are unfortunate." With this prepossession, he is "putting the Oregon penitentiary on the honour system. He began by proposing to a number of selected prisoners to go out daily and work on the farm and roads without a guard, coming back to sleep at night. They jumped at the chance. In a speech to the convicts last June, Mr. West said: 'Of course, there's bush out there, and it would be easy to get away. Besides, it's summer, with plenty to eat out-of-doors, and it's easy to sleep out-of-doors. But this will be an experiment on which the future of the men who will come to this place will depend. They will be treated like slaves or like men according to their behaviour. What do you say? I only want your word of honour, and don't give it if you can't keep it.'"

During the summer of last year one hundred and fifty of these convicts were "out-of-doors in the country about Salem, where the prison is located, mending roads, beautifying the grounds of the tuberculosis hospital, raising crops and milking cows, digging wells and building fences, and, without the suggestion of a guard, finding their way back to prison at nightfall. Only two have broken parole. One of them was caught and is back in prison, without a friend among the men to speak to him. . . . Maybe it is a strange thing to do—let convicts decide for themselves whether or not they shall be guarded and locked up. Yet already there are evidences that when men leave the Salem prison they go out, not like ordinary penitentiary graduates, crushed in spirit, weakened in body and hardened in crime, but men

who have learned to work, to keep their word and their self-control, and who have regained the greatest thing in the world—their self-respect.”

As Dr. Cooley's sun-chambers at Warrensville are a good deal nearer to reason than black holes in Russia or new Caledonia, so are the honour system and paroles of Warden Tynan and Governor West a moral league or two ahead of sequestration in Louvain and of the policy of perpetual mistrust that goes so far to spoil the convict in our own prisons. America, indeed, lets now and then a rainbow's light on Europe.

## IV

These excursions have taken us but a very little way, yet far enough perhaps to give the reader to surmise how wide the voyage would have been through Prisonsdom. Some adventurer, with opportunities of travel never vouchsafed to me, may one day go upon this quest. What I fear is that he will not often enjoy a spin “down the ringing grooves of change.”

For, Europe or Cathay, despite the counsels of criminologists in America, France, Germany, Spain, and Italy (in England their science is but just beginning to be sniffed at), progress in the betterment of prison is extravagantly slow. None the less, since, in the latter part of the nineteenth century, this new school of criminologists, inspired and partly captained by the brilliant, imaginative, and impulsive Lombroso, got seriously to work, many minds have gradually received from it one idea of cardinal importance. It is, that imprisonment of the conventional and old-fashioned sort is a grand, unmitigated failure. Real and acceptable remedies or substitutes



may be and are very difficult to arrive at ; but the absolute defectiveness of the ancient method—imprisonment as imprisonment—is an outstanding fact. Its failure is the same in all countries. It is played out.

Our own mechanicians keep on touching up the old machine, and every now and then it starts off again in quite an imposing manner. The Prison Commissioners attract their due share of abuse, but they never leave off tinkering at the system they administer ; they publish annually a very painstaking report in which apology blends with gratulation ; and they are probably as energetic and conscientious a body of gentlemen as the public service contains. Their system may be destined to the dust, but while it survives they will not cease to medicine it.

There is occasionally at the Home Office a Secretary of State, whether Liberal or Conservative (a Mr. Asquith at one time, a Sir Matthew Ridley at another), who allows the needs of prison a call on his activities ; and the Commissioners are then, perhaps, a little busier than usual. Mr. Winston Churchill gave them no undue repose. The penal reforms outlined and proposed by him in the House of Commons two years ago<sup>1</sup> were considerable. The speech itself might well have been reproduced in its extent and sold or distributed as a pamphlet. It was an utterance at once practical and compassionate, statesmanlike and philanthropic, distinctly a message of hope. No Home Secretary has ever spoken better, few Ministers have ever spoken so comprehensively and feelingly, on the deep social questions concerning imprisonment, the prisoner, and the ex-prisoner.

To all the most important of Mr. Churchill's pro-

<sup>1</sup> July 20th, 1910.



posals effect has since been given, and the gain is appreciable. He was bent first of all upon reducing and keeping down the prison population. This opens up the question of fines and the proper way of managing the fine system. Why go through the farce of fining a prisoner and then at once sending him to gaol? "In 1910," said Mr. Churchill, "there were 90,000 persons committed to prison in default of the payment of fines, the greater proportion of whom might have paid had sufficient time been allowed. . . . More than half the persons committed to prison in default of paying the fine were committed for offences of drunkenness." To send a drunkard to prison for a week is simply to put him in training for a new bout, to foster him in his habit. Then there are all sorts of small offences—frequently the merest peccadilloes—which can be and have been punished with imprisonment, the alternative fine being not immediately forthcoming. One of the fines that may be mentioned is that too often inflicted on the day-labourer for the truancy of the boy at school. In the majority of instances these commitments are unnecessary. For short periods every year we have been sending to prison thousands of persons who should never have seen the inside of such a place. They learn to know it, and sometimes find it not so shocking as they had fancied. There are other cases in which the taint of gaol spoils or destroys the chance of getting work. And the cost to the country of these countless short and futile sentences is enormous. Every case entails some amount of clerical work, and the whole of this vast body of delinquents has to be fed, clothed, lodged, and supervised at the State's expense. The result is sheer, irremediable waste. What solid return in work or anything else can be

got from the prisoner whom we put away for ten or fourteen days? Mr. Thomas Holmes, secretary of the Howard Association, expressed his belief that the right management of fines would keep 60,000 persons out of prison every year.

Certain young gamblers, rowdies, and larrikins are now, under the new rules, being dealt with by means of what is called "defaulters' drill." This is described as "something extremely salutary and at the same time extremely disagreeable." It is perhaps a question whether many of the weedy boys of the street are fit for the kind of drill that might be useful enough for well-grown and well-nourished subjects. Possibly some form of detention with curative treatment would give better results. But whatever be done it is wise to avoid committing to prison the 5000 lads who were annually sent there for such "crimes" as stone-throwing, pitch-and-toss, football in the back streets, or sleeping in the open air. This was criminal on the part of the State.

There is a class of prisoners very different from any of these. Of "political" prisoners, commonly so called, the law itself knows nothing, but most of us are moderately informed as to the meaning of the term. No one, at any rate, confounds the offence of the burglar with that of the enthusiast who pummels the police about taxes or votes or the existence of the Deity. One may break the law in ways which, in Mr. Churchill's phrase, "do not involve any moral censure," any "moral turpitude." Law-breakers of this class may congratulate themselves that they will no longer be submitted to the degrading punishments that are not beneficial even to the most degraded prisoners. It would not be difficult to show that the mere wearing of ignominious clothes has its effect—

and probably in very many cases a powerful effect—in imbuing the prisoner with a deeper sense of self-contempt; and self-contempt must be transformed, in however feeble a degree, into self-respect, before any work of reformation can begin. The humiliating garb of the felon, changing him from a man into a grotesque, has done woefully little to improve him! In a few of the more sensibly conducted prisons of America the uniform of the stripes is being abandoned for a decent suit of blue-black, and I believe we shall gradually come to understand that the broad-arrow wear of our own convicts is an embellishment not exactly worth what it costs in its indirect contribution to recidivism.

“Separate” confinement (the official euphemism for what is actually solitary confinement, since it means some twenty-three hours out of the twenty-four) is reduced to one month “in all cases except those of old offenders.” Something more is done in the way of lectures and music, and one may be moderately sure that concessions in these directions will have a salutary effect. There are prisons in America in which convicts have their own band, and discipline is none the worse. We hear of “pampering” in these matters: the convict on a seven or ten years’ sentence knows negligibly little of pampering! I would introduce a prison journal in the convict establishments. This also is a privilege hugely appreciated by the shorn-heads of the United States, and the odd copies of these prints that have passed into my hands wanted only a little more candour and a little less goodyness. It would be no bad plan to let prisoner address prisoner in this manner, and governors could safely be trusted to see that the liberties of the prison press were not abused! Oscar Wilde was allowed to write his

“De Profundis ” in his cell at Reading, and it seems a trifle absurd to reduce an educated prisoner to the slate and pencil, a provision that transports us to the days before the Education Act was passed. A prison journal written for prisoners by prisoners might be useful as criticism from the inside point of view. Mr. Justice Darling has had the courage to say from the bench that when new laws were to be framed it would be not unreasonable to take the opinion of the criminal whom they would affect ; and from the shades of the cell, in a newspaper made entirely with his own hands, he might deliver to us with a relish some sharp and useful notions on the congregated pains of imprisonment.

## CHAPTER II

### "THE MAN THAT WAS A THING"—SOCIETY'S CRIME AGAINST THE CRIMINAL

*[Of course, from one point of view, I know that on the day of my release I shall be merely passing from one prison into another, and there are times when the whole world seems to me no larger than my cell, and as full of terror for me . . . all sentences are sentences of death.]*

OSCAR WILDE, looking to his day of freedom, wrote these words in a cell of Reading Prison. They are terrible words from the pen of one who has at least borne the punishment imposed on him by law, has paid the penalty exacted of him. He counts merely on changing the little prison he has been humiliated in for the wide prison of the world, where he will be even more bitterly humiliated. He counts his sentence of two years as a sentence of death. The brilliant, broken man spoke but the bare truth. The world, "shrivelled to a handsbreadth," became his second prison, and his sentence of two years proved a sentence of death. Soul and body shattered, he was very soon in the grave.

This, no doubt, was a peculiar case, yet we need not insist too much on its peculiarities. For the disabilities of an Oscar Wilde are known, in greater or in less degree, to every man and woman on whom

the taint of gaol has passed. There is a crowd of pariahs living among us, and yet in a marked and painful manner separated from us, who have ceased to share the world with us on any terms of equality. They are the persons who have been in prison.

These few facts open up two aspects of a very important question, the question of the future of the ex-prisoner. The first aspect is a moral and the second an economic one. Are we just in our attitude towards the ex-prisoner? Are we wise?

If theory went for anything, the prisoner should quit his cell mentally, morally, and physically fit to do battle for himself again. It is admitted that he has handicapped himself; it is felt by every one that the way at first will be none too plain for him. But we are told that the discipline he has undergone in prison ought to have equipped him for the task. The effect of his punishment, we are assured, is, or should be, to cleanse and heal the offender, weaken in him the impulses to do wrong, strengthen what impulses he may have to do right; tone and brace and build him up anew. All the defenders, official and non-official, of our elaborate system of imprisonment insist that these are among the ends for which it was expressly framed; that they are on the whole, perhaps, its most important ends.

Unfortunately we have at this day an immense mass of evidence which goes to show that the real effects of imprisonment are almost totally and radically different from those that are so often claimed for it. Indeed, if at this day we know anything about what prison does for the prisoner, it is that the very short sentence operates chiefly in the direction of hindering a man from getting work on his release, and that a long sentence of penal servitude



is in nearly all respects injurious. There are no beneficial results from imprisonment. As a mode of punishment it is directly and indirectly a failure. It is a direct failure in the case of wellnigh all the individuals who have endured it, an indirect failure in the case of the community whose efficient strength is reduced by a standing army of prison-made dead-heads and derelicts.

Testimony against the existing system (which, after all, is not so old that we need boggle at the question of bettering it) can be collected from authorities as different as possible. It would be more correct to say that this testimony thrusts itself upon us. We get it occasionally from the judge who passes on the convicted man or woman in the dock a sentence that he feels and knows is practically useless. We get it now and again (in this instance very rarely, for the rules are very strict) from the medical officer who sees the prisoner in confinement. We get it (rarely here also) from the clergyman who holds the dreary benefice of prison. We get it from the unpaid visitors who do the office of charity among the prisoners of both sexes. We get it from the reports of committees appointed by Parliament. We get it, as opportunity arises, from independent critics in Parliament. We get it from mere writing persons like myself, who, having been permitted to go into prison, have afterwards read and sifted some thousands of pages of evidence on the subject. We get it from every intelligent prisoner who has the ability and the courage to tell us in print what his life as a convict was like and what this life did for him.

Bearing upon this point of the failure of prison as a punishment, and its more or less destructive effect upon the victim, I shall select a few illustrative

examples. A judge of wide experience, the late Lord Coleridge, once said that little good could be done to the criminal by the sentence imposed on him; pains might be taken to make prisons "as useful as possible in the way of being reformatories," but "*as a matter of fact, they are not so.*" No more suggestive report about prison has ever been published than that of the committee appointed by the present Prime Minister and presided over by the gentleman who is now Lord Gladstone. The evidence taken by this committee fills a volume of over six hundred large double-column pages. Few aspects of imprisonment and penal servitude were neglected, and the most significant admission in the report is that the system "not only failed to reform offenders, but produced a deteriorating effect upon them."

The late Sir Edmund Du Cane, a very starched and stiff-necked person, who was largely responsible for this system, was driven to acknowledge, respecting the close confinement of prisoners, that it was "an artificial state of existence, absolutely opposed to that which Nature points out as the condition of mental, moral, and physical health." From a prison doctor genuine criticism is very seldom to be had. In England there is, I fancy, a strict rule against it. The medical officers of local and convict gaols make an annual statement to the Commissioners, which is usually both brief and unreadable, though I am certain that most of these gentlemen could tell us a great many very interesting things about the prisoners in their charge. Perhaps in Scotland the rules are a little less severe, for we have from the pen of Dr. James Devon an admirable communication to the Royal Philosophical Society of Glasgow.

Dr. Devon says of penal servitude that it is "a



system of repression mainly ; a sitting on the safety-valve that is apt to provoke outbursts of temper and violence resulting in assault.” He states that the problem of the criminal “is not solved by imprisonment,” that “better results could be obtained by keeping as many out of prison as possible,” and that, as regards the generality of offenders, “their prison experience has failed to produce either a deterrent or a reformatory effect on them.” It would be of great value could we get the unbiassed and unhindered opinions of the whole body of the medical officers of prisons on the effects of long sentences of imprisonment and penal servitude. At present it would be quite useless to suggest that prisoners should be individually watched and studied, though this is, of course, what ought to be done in every penal institution throughout the country, and a doctor with some cultivated taste for mental science is the person to do it. But, if not all prisoners, certain of them should be watched and studied. What a revelation of temperament, for example, we get from Oscar Wilde’s “*De Profundis*” (the one modern English work of genius that prison has bestowed on us), and, in an utterly different manner, from Lord William Nevill’s “*Penal Servitude*” !

The prison chaplain is another man in the machine who does not often tell us (he also, I take it, is pretty close bound by the rules of the service) what he truly thinks of its workings. Every one, therefore, who is in any way concerned about change and reformation in these dark and silent seats is and has long been in debt to the Rev. Dr. Douglas Morrison, who has knocked in pieces all the arguments of all the defenders of the system, and who speaks of the inner life of gaol-dom as an astronomer speaks of the

firmament. Dr. Morrison, who was a chaplain in this service from 1883-98, has told us how, when he first took office, the authorities were issuing Blue Books year after year in which the decrease of the daily prison population was triumphantly pointed to as a proof of the success of the new administration.

“These optimistic statements impressed the public mind. But I was coming into too close contact with the prison population to accept them without reserve. It was clear to anyone going out and in among prisoners as men and women, and not looking at them as figures in a Blue Book, that the punishment of so many weeks or months, or even years of imprisonment, was not deterring them from crime. . . . Many of these unfortunate and guilty creatures entered prison shattered and dilapidated, and when the time came for them to leave it they had become even more unfit for social life than when they went in. *The prison had made them worse instead of better.* When once more at liberty, they relapsed again into crime, and returned to gaol in ever-increasing numbers. The prisons of England, so far from being what they were represented in the Blue Books, were little better than machines for the manufacture of habitual criminals.”

On the general subject of the treatment of the criminal in prison, Dr. Morrison said in a lecture delivered before the Humanitarian League: “Certainly if you want to reform him, you will not attain your purpose by subjecting him to the operation of a code of regulations which are calculated to extinguish every spark of humanity he may happen to

possess.” A leading witness before the Asquith Committee was Sir Godfrey Lushington, K.C.B., who had been nine years Under-Secretary for the Home Department, and twenty-five years altogether at the Home Office. He made some very grave statements.

“I regard as unfavourable to reformation,” said Sir Godfrey, “the status of a prisoner throughout his whole career; the crushing of self-respect; the starving of all moral instinct he may possess; the absence of all opportunity to do or receive a kindness; the continual association with none but criminals; the forced labour and the denial of all liberty. I believe the true mode of reforming a man or restoring him to society is exactly in the opposite direction of all these. . . . *I consider that a mediæval thief who had his right hand chopped off was much more likely to turn over a new leaf than a convict who has had ten years’ penal servitude.*”

Nothing else quite so damaging as this has ever come out of Whitehall. It was in effect endorsed by the Committee, who said in their report: “As a broad description of prison life, we think that this description is accurate.”

After a considered criticism, crushing in every syllable, of Sir Godfrey Lushington, we could almost dispense with the testimony of the ex-prisoners, which some hearers are never very willing to receive, and which is seldom, perhaps, very thoroughly attended to. This testimony, surveyed in the bulk, is, no doubt, of very unequal merit; but the ex-convict who speaks to us in his own name claims a large measure of respect. He comes to us with his reputation in his hands. He is willing to stand to it in the public eye that he is one of the men who have

“been there.” I listen with interest and submission to anything that Mr. H. J. B. Montgomery (of whom I know nothing personally) has to say. In the *Nineteenth Century* and elsewhere he has written simply and shrewdly of what he went through in prison, of the men he met there (few of them differing very widely from the common run of us), and of the greeting that the ex-prisoner may look for on the day of his discharge. From Mr. Montgomery’s writings on the subject I take but a few sentences here and there. They bring the ex-prisoner in touch with the Under-Secretary.

“As they are to-day, English prisons are not only manufactories of crime, but foreing-houses for professional criminals. The human, not to say humane, note is absent from them. . . . The system simply tends to make what I may term the accidental criminal an habitual criminal, to ease-harden the old offender. It is a system lacking throughout in sympathy, which attempts nothing, and apparently cares nothing, in regard to the improvement of character, or in reference to preparing the incarcerated man or woman for return to the world. . . . If the English people knew the English prison system as I know it, I feel perfectly certain it would be doomed.”

A note of Osear Wilde’s prison book is this :—

“The prison style is absolutely and entirely wrong . . . our very dress makes us grotesque. We are the zanies of sorrow. We are clowns whose hearts are broken.”

Between Wilde’s “*De Profundis*,” a uniquely written thing—the half-uttered first canto of a new

Inferno—and the business-like, self-contained, and very unassuming but very critical pages of Mr. Jabez Balfour's volume, "My Prison Life," no comparison is possible. Mr. Balfour's is the best practical exposition and condemnation of penal servitude that we have. He writes without bitterness, and deals with prison as with a balance-sheet. "Looked at from whatever point of view—whether we regard it as intended to reform, to deter, or to punish—the existing system has failed." As touching on the absolutely and cruelly artificial life which the convict is compelled to lead, one little point is of curious interest. No convict is allowed a looking-glass; he passes years without knowing what his features are growing into. After nine years of captivity Mr. Balfour caught sight of himself in a glass in the library of Parkhurst Prison. "I started back, for I did not know my own face. It was one of the most amazing and terrifying experiences in my life. I had changed past recognition." It is quite possible, of course, for a convict to spend years in prison and never look upon a woman, never see a child at play. No life is more utterly unnatural.

An article, "Concerning Imprisonment, By One Who Has Suffered It," in the authoritative *Hibbert Journal*, gave the public a momentary feeling of uneasiness. Many newspapers quoted it at length, and the *Express* printed a vigorous and instructive correspondence on the subject. The Press is as difficult to rouse in this matter as Parliament or the taxpayer; it waits for the lead of a sensational article. To readers unfamiliar with the theme of prison, this communication to *Hibbert* must have seemed sensational in a high degree; but, apart from the passion of protest that fills and overspreads

it, the writer says little that had not been coldly said by the Under-Secretary.

The author of this powerful and lurid contribution worked out the greater part of his sentence in Australia ; but the general conditions of penal servitude in that distant country seem to reflect those of a convict establishment in England. "What is it that we are really going to?" he asked a fellow-prisoner, and the stimulating answer was: "Hell!" Well, Jabez Balfour (while admitting that "things have doubtless changed since then") found Portland "a heart-breaking, soul-enslaving, brain-destroying hell upon earth."

In terms as dreadful the writer of the *Hibbert* article tells the story of his own imprisonment. He says explicitly that penal servitude

- (1) Is slavery ;
- (2) Is a school of crime ;
- (3) Destroys men morally, physically, and mentally ;
- (4) Is wholly evil in its effects.

"A World of the Dead" is his general description of prison. The prisoner "has no rights whatever, either as a man or an animal. . . . He is ruled entirely by compulsion. Not for a single moment can he do anything he would elect to do." The following note is recurrent :—

"By whatever margin of creational equipment a human being is superior to a beast, by so much is that human being's condition inferior when the key turns and he or she is left locked in the kennel, henceforth replacing what has been his or her home. Language affords no means of expressing its agonising, appalling effect on mind and body."



Oscar Wilde had said long before :—

“ For us there is only one season, the season of sorrow. . . . A day in prison on which one does not weep is a day on which one’s heart is hard, not a day on which one’s heart is happy.”

At the long last comes the day of discharge, and I fancy that the shock of release must be something which those of us who have not been set free from prison cannot even faintly realise.

We have now arrived at one or two facts of interest and importance. The punishment of imprisonment does not do what it professes to do and is supposed to do. It does not reform anyone ; it does not deter anyone from going back to crime ; it does not help anyone to win again the place that he has lost as a citizen. In every way it hinders him. If he does not come out of prison a worse man than he was when he entered it, he comes out a weaker and more helpless one. His general efficiency, I think, is about seventy-five per cent less than it was. He has existed during his imprisonment as a Thing ; a Thing disgraced and despised. It is unwholesome to live in this way, and it is indescribably emasculating. No man can be improved, and the most obdurate of men is made more obdurate, by being compelled to pass a term of years in contempt and degradation. The man who has done this is at a frightful disadvantage when he is delivered again into freedom, with his way to make once more in the world. He has lost his sense of self-respect, and this is but another term for moral paralysis. He has lost all touch with free workers. He has lost, in every reasonable meaning of the word, his individuality.



Ought we not to give this man some chance of rehabilitating himself ?

What is the legal situation of the ex-prisoner ?

This question was discussed two and a half years ago in a thoughtful and cogent article in the *Fortnightly Review*, entitled "Society and the Criminal." The writer, Mr. Reginald Statham, shows by references to Acts of Parliament, text-books, and law reports, that the enduring of punishment for criminal offence has the same legal effect as a pardon under the Great Seal. Now we know, or should know, what the granting of a pardon means. It means that every stain attached by the law to the offender has been wiped out. In the eyes of the law the man who has "done time" has thereby purged himself of his offence, and has received (in the words of a high legal authority) "a new capacity and credit." He stands according to law in precisely the situation in which he stood before he committed the offence that has been expiated in prison.

The law's attitude is sensible, humane, practical. Nothing can be more impolitic or in the long run more improvident than for a State to refuse to the delinquent citizen whom it has already punished (and often with extreme severity) the right to make a fresh credit for himself in the world.

But the attitude of society is very different from the attitude of the law. I cannot but think that the State itself is in some degree responsible for the individual whom it thrusts from prison upon a gaping world, from the cell into the street. (Under the newest scheme in Japan, work is found by the State for all discharged prisoners, and it is an indictable offence either to molest or to boycott them.) But whatever the responsibility of the State, I am in no

doubt at all as to the responsibility of society. For the luckless creature whom the law has broken there are at least two tremendous crises. The first is when he enters prison. The second is when he leaves it. There are those to whom the second crisis is almost more terrifying than the first ; and it is at this hour that to the sinner who has paid his forfeit in full the moral obligation of society begins. In what manner is this obligation met ? Listen once again to Wilde, yearning for yet dreading the day of his release :—

“Many men on their release carry their prison about with them into the air, and hide it as a secret disgrace in their hearts, and at length, like poor poisoned things, creep into some hole and die. It is wretched that they should have to do so, and it is wrong, terribly wrong, of society that it should force them to do so. Society takes upon itself the right to inflict appalling punishment on the individual, but it also has the supreme vice of shallowness, and fails to realise what it has done. When the man’s punishment is over, it leaves him to himself ; that is to say, it abandons him at the very moment when its highest duty towards him begins. It is really ashamed of its own actions and shuns those whom it has punished.”

This is just as true as it is discreditable to all of us. Whatever may be the legal status after imprisonment of the men who were once army officers, solicitors, bank managers, clerics, financiers, clerks, tradesmen, we know very well what their real position is. They are the social lepers of their world. In very many cases they have had to change their identity altogether, and the man who has had to do this lives in constant terror of discovery and betrayal. Such a

man, moreover, is leading a false, and therefore a more or less diseased existence ; he is always in a state of repression, as he was in prison ; and in this state he can never do justice to himself. If he is in hiding, using a name not his own, it is very likely that he will sooner or later be found out, and then at once the shame of prison covers him again, and he is probably driven forth to some obscurer hiding-place. What must be the ultimate fate of this man ? Suicide or a return to crime, says Mr. Statham. Our prisons are filled with men who have been punished in this way again and again, and the Home Secretary has told us that we have something like sixty per cent of reconvictions. Yet, if prison is what it has here been shown to be, penal servitude is not exactly the condition which any of us would willingly re-enter.

If we have not faced the question in a fair spirit, it is partly, perhaps, because we have never quite understood it. What, for instance, do we gain by spending every year more than half a million of money on prisons that reform nobody, and that always contain an immense number of persons who would probably not be there at all if, after their first punishment, we ourselves had done our duty by them ? Is not this as foolish to ourselves as it is wrong to the legion of degraded persons whom we have made helpless in our hands ?

Between society and the ex-prisoner there should be an understanding. He has taken the dose that we have forced upon him. It is a bad dose, and has none of the restorative effects that we have boasted of in Blue Books. We should help him to recover from it. Not one of the many charitable institutions that are at work in the interest of the ex-prisoner will ever be able to benefit him until the mind of

society softens, and, in softening, grows sensible. These institutions are driven to do in the dark what should be done in the light and in the open. The Church has made no public effort in the cause of the ex-prisoner. There is text enough in his situation, one would think !

The feeling and opinion of society, then, are out of harmony with the law. It may at once be granted that there are particular cases in which it is difficult for a community freely and cordially to extend the hand to the offender who has once been cast out ; but, in general, it is made quite as hard for the erring and the victim as for those whose offence has implied or suggested a grave moral taint. To all alike the law says : “ Your credit is restored to you.” To all alike society says : “ Your position is naturally hard ; we will make it harder ; we will make it so hard that recovery shall be impossible ; we will decree that whenever you have gained a few steps in your ascent from the abyss you shall be hurled back into it again.” This utter want of sympathy, merging in downright hostility, is a direct encouragement to the ex-prisoner to relapse into the life of crime. The first offender, in brief, is liable to be gradually transformed into the habitual offender. This is as serious a matter as could well be, and we should take some trouble to find a remedy or remedies.

One of Mr. Statham’s suggestions is that, without disturbing or interfering with any existing Acts, “ it might be found worth while to pass an Act under which persons previously convicted might, if so deserving it, obtain a formal certificate (if one may call it so) of rehabilitation. Such an Act would obviously have to be permissive or optional only.” To the possible objection that legislation might not

succeed in dispelling prejudice, Mr. Statham replies : "The public mind seizes readily upon public formulas, and would therefore attach importance to such a certificate."

Legislation would, undoubtedly, encourage many an ex-criminal to make a very strenuous effort to right himself with the world. It would do something to break through the demoralising habit of concealment which is one of the inevitable results of the prejudice of society. It would establish "a concrete and public proof of rehabilitation, to which the public could always refer." It would supply a valuable protection against the blackmailing of the respectable ex-prisoner by the disrespectable ex-prisoner, which is said to be frequent.

Legislation apart, I have more than once suggested the establishment of some sort of public bureau to which the discharged prisoner, anxious to retrieve his fate, could openly resort, and where his case and claims could be frankly considered and dealt with. It is improper that he should have to sneak up the stairs of an aid society that treats him (in Mr. Montgomery's expression) "as a one-legged man." This suggestion, which I made in the *Law Times* in 1907 (and earlier, I think, in Mr. Stead's *Daily Paper*), seems not very different from the scheme outlined by Mr. Churchill in his speech in the House of Commons, of a "new central agency of a semi-official character." The State, in brief, is at last beginning to recognise that it owes something to the man it has imprisoned. Mr. Statham, in a personal communication which I have from him, favours what he happily calls a Criminal Restoration Department,

"whose business it would be to take stock of first offenders (in particular), to note their conduct and

bearing under punishment, and the nature of their connections and surroundings in the world. Instead of the cast-iron system of ticket-of-leave, every prisoner should be made aware that he can shorten his term by his own conduct, *but do not let him know when*. And when once he is released let him be absolutely free. To let a man out of prison with a string tied to his leg is simply a refinement of cruelty.”

The ticket-of-leave system was long ago denounced in the strongest terms by the late Cesare Lombroso. It may have been devised less in the interests of the conditionally released convict than in those of the police, whom it certainly invested with peculiar powers. It has often been hinted that these powers were not invariably exercised in the wisest, most tactful, and most charitable manner ; but practically the “ ticket ” system is abolished.

The Asquith Committee urged that “ habitual criminals can be effectually put down in one way only, and that is *by cutting off the supply*.” One of the surest means of cutting off the supply would be to give due facilities to first offenders to rehabilitate themselves.

If the right kind of Departmental Committee could be got, the question might be completely sifted. It is a question with many aspects, and there is much in it upon which all of us should be fully informed. The public at large knows very little of what the criminal goes through during a long sentence of penal servitude. Still less, perhaps, is it able to realise what he has actually to face on the day he is restored to the world.



## CHAPTER III

### PENAL SERVITUDE: A TASTE OF LIFE AT PORTLAND

A SENTENCE of penal servitude may be for three years or for life. Intermediate between these extremes are sentences of five, seven, fifteen, and twenty years. By "steady industry," allied to what is called in prison "good conduct" (a matter of mere passive obedience), a prisoner may earn remission of about one-fourth of the judge's award. This, under the "mark" system, means that he must pile up all the marks he can, and forfeit of them as few as may be.

Jabez Balfour, whose prison life lasted ten years and five months, says that during the whole of this existence—the most monotonous, depressing, exacting, and irksome that can be imagined—he lost never a mark that could be won, had never a scratch against his name. Praise to whom praise is due! That this constitutes a splendid record let the words which follow testify.

"The life of a convict," says Mr. Balfour, "a life regulated by two or three gentlemen in Whitehall—is not to be judged by any of the standards which are applicable to a life of freedom. Seclusion, silence, shame, separation from one's fellows, a



minute and pedantic control exercised by others over all one's actions, a steady, persistent course of official snubbing from morn till eve—these are its normal conditions. The man who is brave enough to accept them and adapt himself to them may grow at length so accustomed, so acclimatised, to their influence, as to pass at least a tolerable existence. But this demands exceptional qualities and a tremendous effort."

A life sentence signifies in general some twenty years, but the prisoner is not necessarily released at the end of this frightful term. I saw at Portland a convict, a reprieved murderer, who had been confined for five-and-twenty years. A young poacher, he had shot a gamekeeper in some midnight tussle in the woods; and in prison had lain forgotten for a quarter of a century. He carried in Portland the nickname of "Unhanged R——," and the warder from whom I had his history gave him the highest character. He is dead, I hope!

The punishment involved in a decree of penal servitude is applied, as to all essentials, in precisely the same manner to every person undergoing it. No discrimination is made between the baronet and the professional burglar, between the ex-member of Parliament and the murderer who has escaped the gallows, between the bank clerk and the common thief. Whatever may have been the previous career and character of the convicted, once the penal livery is donned the same iron rule is meted out to each and all.

Du Cane says :—

"The previous career and character of the prisoner makes no difference in the punishment to

which he is subjected, because it is considered, and rightly I think, that it is for the Courts of Law, who have, or should have, a full knowledge on these points, to consider them in awarding the sentence; and if any prisoner were subjected to harsher or milder treatment in consequence of any knowledge the prison authorities might have of his previous character, it might be that he would practically be punished twice over on the same account, and on information much less complete and less impartial than the Court of Law would have at its command. The Government would also always be liable to charges of showing favour to or prejudice against certain particular prisoners: and any feeling of this kind would be fraught with danger and inconvenience. It is also considered, and justly, that the Judge or Court who passes the sentence should know, or should be able to know, precisely the exact effect of the sentence, and this would be impossible if any discretion rested with the executive officers as to the mode of carrying out the punishments. At the same time, it is open to consideration whether more than one mode of carrying out the punishment might not be *laid down by authority*, as applicable to certain defined cases, and whether a discretion might not be given to the Judges as to the system to which each prisoner should be subjected."

It is perfectly clear that equal punishment, distributed among a diverse population of prisoners, is of all things the most *unequal*. The judge "should be able to know precisely the exact effect of the sentence"! How many judges know, in any detail, what penal servitude itself is like? If every judge knew

four times as much as any judge is ever likely to know about this penalty, it would still be impossible for him to estimate—I will not say “precisely,” but in a degree the most remotely appreciable—the manner in which the particular sentence will act upon the particular criminal. What we can definitely assert is that each sentence tells in its own way, and that upon no two prisoners does it tell in the same way. To A a “lagging” of five years is a leaden interval in a life of illicit excitements. To B it is the certain loss of the stool (in office, bank, shop, warehouse—what situation soever it may have been) that he had hoped to hold for life. To C it is sheer ruin of name, fortune, family—everything: the pillars of his little universe have collapsed beneath him. Each of these persons may have deserved punishment—so far forth as punishment is of any profit to anybody—but to say that they are all punished alike by a sentence of five years’ penal servitude is to talk nonsensically. Not less nonsensical is it to suggest that the judge concerns himself about the “effect” of the penalty he inflicts. Following the traditions of his court, the judge passes sentence not on the man but on the crime. When he departs from his rule, and passes sentence not on the crime but on the man, the victim usually gets a trifle beyond his deserts.

Formerly divided into three, the stages of a sentence of penal servitude are now practically comprised in two. Again, as to the first of these stages a change has to be noted. Until within a very recent period, every convict served the first nine months of his sentence in the strict seclusion of his cell. We may call this “separate confinement”—as it is described in the reports—but between separate

confinement and solitary confinement no real distinction is to be made. Twenty-two or twenty-three hours out of the twenty-four the prisoner sits alone with his task and his thoughts.

Du Cane says of the objects of this probationary stage :—

“ The first is, that every convict shall be subjected to a period of strictly separate confinement, which not only is a severe penal discipline, but during which his mind is thrown in upon itself, and he cannot fail to feel that, however agreeable may have been his previous life, probably one of idleness and excitement, he pays dearly for it by the dull monotony, hard work, a diet which is sufficient but no more than sufficient, and deprivation of every luxury he has been accustomed to indulge in ; and, above all, by the absence of freedom and the constant supervision which is his present condition and which form his prospect for some years to come.

“ During this time he becomes open to lessons of admonition and warning ; religious influences have full opportunity of obtaining access to him ; he is put in that condition when he is likely to feel sorrow for the past and to welcome the words of those who show him how to avoid evil for the future.”

Nothing could be more plausible ; but the experience of years was to reduce to folly almost all the official platitudes of this great high-priest of the system. “ During this time ” the convict, cooped in his cell, contending as best he might with the conditions of a life insanely and intolerably artificial, very seldom became “ open to lessons of admonition

and warning"; seldom did "religious influences have full opportunity of obtaining access to him"; and though he might certainly be "put in that condition when he is likely to feel sorrow for the past," his mood was seldom that of welcome for "the words of those who show him how to avoid evil for the future"—words which, in any case, are rarely proffered in the cell. It is the word of command that the prisoner is familiar with. Briefly, the nine months' "separate" or "solitary" proved a failure—and, be it remembered, the nine months were once eighteen. There was found to be nothing salutary; often, on the contrary, something quite hurtful, in turning the prisoner's mind "in upon itself" for this protracted term; and the nine months (save, I believe, in the cases of certain old offenders, for whom they can be intended only as an added punishment) have been brought down to one month.

A convict sentenced at the Old Bailey will most likely do his "separates" in one of the large London prisons, such, for instance, as Pentonville or Wormwood Scrubs. For the second and principal stage of his discipline he is transferred to what is called a Public Works Prison. The best-known prisons of this type are Portland in the county of Dorset, and Dartmoor in the wilds of Devonshire. Here the convict sleeps and takes his meals in a separate cell, but works in restricted association, under the close supervision of his guards.

The prisoner doing his first "lagging" knows little of the new life that awaits him on Public Works. He has more or less habituated himself to the seclusion of the cell which he is about to quit. He is, perhaps, unwilling to face the comparative publicity of a gaol in which he will have to labour in the companionship

of felons of all orders. But the old "lag," who has "fetched" several previous "stretches," or terms of penal servitude, is glad enough to make the change to "public works." He knows all that he has got to face; he also knows that in some outdoor gang he will be pretty certain to meet a pal or two and hear the news. He is mainly curious as to his destination, for no prisoner is told to what gaol he is to be transferred, and he may be on the move to one that bears a bad name among the old timers. I shall send him down to Portland.

Portland Prison, at the summit of the island or promontory of Portland, surveys the sea from a height of some five hundred feet. The island itself is a huge mass of stone, and on all sides, except upon the south, is girt by a ridge of tall, steep rocks. It has been attacked by the French, and was stormed by Cromwell's troops in the Civil War. "It seems," says Jabez Balfour, "a place designed by Nature for the imprisonment of human beings. What the Château d'If of 'Monte Cristo' fame is to the Mediterranean, such is Portland to the English Channel."

As the convict, chained by the wrist to a brother lag, climbs the steep three miles of winding road from the shore to the island top, he has a variety of object-lessons in the difficulties that would attend an attempt at prison-breaking. He perceives that it would be no easy matter, if the shore were reached, to cross to the opposite coast. He observes that to reach the shore would be harder still, for the military barracks command it from the heights, and the sentries have peremptory orders to fire on a flying convict. Near to the prison itself he sees the civil guard, with loaded rifle and bayonet, posted on every



spot of vantage, and patrolling the narrow street that leads to the great iron gates. Within these, he is in the midst of tall grey walls; he has the impression of a far stronger force of warders than surrounded him in his London prison; he notes that the principal warders have a sword trailing from the belt. Everywhere there is an air of militarism, of readiness for and preparedness against assault from within. The rare visitor from the outer world who is at all familiar with the general aspect of the London prisons, feels and perceives a difference the moment he steps within the walls of Portland. That other comer, with the steel chain at his wrist, has the notion that he is a much more formidable enemy of society than he had supposed himself to be when he lay forlorn in his cell some two hundred miles away in London.

In Wormwood Scrubs prison there is accommodation for about twelve hundred prisoners. Portland holds a like number. But in Wormwood Scrubs a force of some sixty chosen warders is sufficient for the maintenance of discipline; whereas at Portland, the strength, including the civil guard, is one hundred and fifty. At the head of the discipline staff is the chief warder. He has under him a certain number of principal warders, who have charge of the gangs on the works, and of the wards or halls in which the cells are. Next in rank are the warders and assistant warders, who have immediate control of the prisoners. The Governor is the head of the establishment, and his right hand is the Deputy-Governor. These officers have mostly served in the army or the navy. The prison has a chaplain, who has a staff of schoolmasters under him; an assistant chaplain; a Roman Catholic priest; a medical officer, who has control of the



infirmary staff ; an assistant medical officer ; and a clerk of the works. There are stewards and store-keepers ; and a staff of permanent officers to instruct the prisoners in their various trades, and to measure the value of the work done by them. All of these are subject to the Governor in every matter of discipline.

Marched to his cell in Portland, the fresh arrival compares it, quaking a little, with the one that he quitted in London in the morning. It is fitted, to be sure, in much the same way. There is a stool to sit on and a shelf for his books, a zinc basin and jug, a tin knife and plate, and a tin pint measure. The bed in the old cell is here replaced by a hammock, which is the easiest sleeping-place in the world, though it tends to hump the shoulders. But the Portland cell is the merest cupboard (and none too well lighted at that) as compared with the one he has just abandoned. It is a bare four feet in width, and seven in length. He can stand in it comfortably, but he need not extend his arm to touch the ceiling.

It matters little from what "local" prison the new-comer has arrived at any convict establishment ; by the aspect and the very breath of it he knows that he has touched a lower and a harsher circle.

"As the great, gloomy gates closed on me," says Balfour, "and I realised that here was the spot in which I was probably to be immured for ten long years, my feelings beggared description. Moreover, before I had been five minutes inside that dreadful fortress I had discovered that there was as much difference between Portland and Parkhurst"—the prison in the Isle of Wight from

which he had just come on—"or Wormwood Scrubs as there is between Ratcliff Highway and St. James's Street. . . . I left my decent and roomy cell, and was thrust, in the brusque fashion that distinguished Portland, into a box seven feet long, seven feet high, and four feet broad. I am a short man, but I could touch the ceiling with my hand. It was nothing but a small corrugated iron kennel, with a stone or slate floor. There was not so much as a bit of wooden grating on the floor; so that a prisoner, when his boots and stockings were off, had to tread the icy-cold flags. The only articles of furniture in it were a wooden stool, a very diminutive flap table, and a hammock and bedding rolled up on a shelf or ledge in one corner."<sup>1</sup>

On the morrow of his coming, the new hand hears the bell at five o'clock, an hour or so earlier than he was summoned at Pentonville or the Scrubs. At five minutes past five he must be out of his hammock. He has a good supply of water in his cell, and if he likes to wash all over he can do so. After dressing he has to put his cell in order. Everything in the prison is done to pattern; all bedding and hammocks are rolled and folded in precisely the same way, and every book on the shelf and every article of furniture in the cell has its appointed place and must abide there.

At ten minutes to six it is breakfast-time. Meals, fetched from the kitchen by convict orderlies, are carried in trays and baskets to the several halls; and as the warder on duty unlocks each cell in turn,

<sup>1</sup> In recent years, I believe, the cells of Portland have been largely rebuilt; but the best of cells in the best of prisons has no pretensions to the style of a respectable scullery.

the prisoner stands at the door to take in his pint of gruel and loaf of brown bread. Each prisoner on full hard-labour diet get 168 ounces of bread per week—23 ounces on weekdays and 30 on Sundays.

Chapel muster is at a quarter to seven, and immediately after service comes the general parade for labour. Here the men are mustered in gangs according to the work they are employed at. While the principal warder in charge of the gang counts his men, an assistant warder searches them; each prisoner standing with his jacket unbuttoned and arms outstretched, holding his cap in one hand and handkerchief in the other. This is to prevent men from carrying food out of their cells, or anything into them that might favour a hopeless notion of escape; but, like everything else in the military discipline of a convict prison, the business of searching is overdone. Four times a day, Saturdays and Sundays excepted, every prisoner is overhauled—"rubbed down," in the slang of the place—in the same meticulous fashion. When the warder in charge is assured that all is right with his party, he salutes the Deputy-Governor, who presides at the parade, gives the number of his party and the number of men in it, and the figures are checked by the chief warder.

There are some thousand men to be searched and numbered, but the work is quickly despatched, and at about a quarter-past seven all is ready for the march to the works. The outlying sentries, members of the civil guard, shoulder their rifles and lead the way. They are followed by the military guard, whose scarlet coats are the only bit of colour in the sullen pageant. The prisoners march out two abreast

by gangs, and remarkably well they step ; the parties for the quarries going in front. Standing on the rampart in front of the Governor's office, which commands a prospect of the varied and extensive works, quarries, and outbuildings enclosed within the prison walls, one may take note of the different classes of prisoners as they troop to labour.

A certain number of men will be seen wearing the ordinary convict dress without facings of any kind. These are probationers. Every prisoner passes his first twelve months in the probation class, during which time he must earn on public works 720 marks. If he has earned that number and been well conducted, he is eligible at the end of his first year for promotion to the third class. Those are third-class men with the black facings on their jackets. They must earn during their second year 2920 marks, and they may then be promoted to the second class. The second-class men are those with the yellow facings. At the end of another year promotion may be obtained to the first class, with blue facings. In the first class an industrious prisoner of good behaviour remains until within twelve months of his discharge, when he may perchance be received into the "special" class, the members of which are distinguished by a full suit of blue.

While he remains in the probation class, the prisoner is allowed to receive no visits from friends nor to receive or write letters, except one letter on reception from separate confinement. The third-class man may receive a visit of twenty minutes' duration once in six months, and may receive and write a letter once in the same period. The second-class man may be visited, and may receive and write a letter once in four months. In the first class the

prisoner is entitled to receive a visit of half an hour and to receive and write a letter every three months. In respect of diet, prisoners in the first class are allowed the choice of tea and two ounces additional bread in lieu of gruel for breakfast, and baked instead of boiled beef for dinner.

Two hideously distinctive dresses remain to be described. One is a parti-coloured dress of black and drab, one side one colour and one the other. The second is parti-coloured drab and brilliant yellow. The black-dress men have been flogged with the cat-o'-nine tails for an assault on a warder. The yellow-dress men have attempted an escape from prison. Both wear a chain six and a half pounds in weight, held up to the waist by a strap and riveted on each ankle. These fetters are worn night and day, sometimes for six months together, and the wearers are in the penal class and on restricted diet, with other discomforts, all that time. They walk alone at the rear of their respective gangs, their chains clanking—poor, grotesque creatures, proper to the procession of a Spanish Inquisition.

Now the gangs have all filed out and are marching to their several stations, to the workshops, the building-grounds, the stone-cutting sheds, the foundry, the quarries. Men whom the doctor will not pass for hard labour are employed in the tailors' shop, the laundry, the sewing-room, etc.

Every man physically able to do so must work with his hands at some calling, and coarse, rough labour is a part of his punishment. The skilled thief is put, perhaps, to toil in the quarries; and it might be supposed that a task of this sort, long continued, would take the cunning out of his fingers. But, if he returns to his old haunts, he goes in for a short

course of bread poultices and gloves of chamois, till his fingers grow supple again.

At Dartmoor the prisoners are largely employed in reclaiming and farming the land about the prison. At Portland a principal part of the hard labour consists in the quarrying of stone, great quantities of which are sent away to all parts of the country. It was at Portland that the system was first begun of carrying out large public works by means of convict labour. The great achievement at Portland was the construction of the breakwater, a stone dam in the sea two miles long, and running fifty or sixty feet into the water. The military barracks, and the stout works of defence on the island—batteries, casements, etc.—were raised by convict hands.

I shall attempt in another chapter to show what, and how little in the main, is the worth of a convict's labour. For the moment, I invite the attention of Capital—seeking good and quick returns from the servants in its pay—to the spectacle of Mr. Jabez Balfour, ex-financier, ex-M.P., at work in the shoemakers' shop at Portland.

“ We had one or two dynamiters, kindly and well-behaved men, as I have already said ; one or two doctors, an accountant, a bank manager, two or three solicitors, a sailor, a soldier, one or two tradesmen, one or two murderers, and one or two clerks who had got into trouble through backing horses.”

At the time I visited Portland there were doubtless other doctors, murderers, solicitors, and sailors engaged as usefully as Mr. Balfour and his party in the shoe department, at one trade or another in this imposing list :—



Bagmakers	Fitters, iron	Riggers
Bakers	Fitters, ordinary	Sail or Ham-
Basketmakers	Flax dressers	mock makers
Bellhangers	Galvanisers	Sawyers, stone
Blacksmiths	Gardeners	Sawyers, wood
Boilermakers	Grinders	Ships' fender
Bookbinders	Knitters	makers
Bricklayers	Locksmiths	Shoemakers
Brickmakers	Masons	Slaters
Carpenters	Matmakers	Smiths
Chairmakers	Moulders	Stonecutters
Chimneysweeps	Moulders, brass	Strikers
Cooks	Moulders, iron	Tailors
Coopers	Painters	Tailors' repairs
Coppersmiths	Paperhangers	Tinsmiths
Engineers,	Plasterers	Turners
mechanical	Platelayers	Washers
Engine drivers	Plumbers	Weavers
Fitters, engine	Polishers, French	Wheelwrights
Fitters, gas, etc.	Printers	

The marks earned by a prisoner are nominally proportioned to the amount and quality of his work, and for practical purposes in calculating the gratuity to be given him on his discharge the following scale has been adopted :—

In the third class	20 marks are equal to 1d.
In the second „	„ „ 1½d.
In the first „	„ „ 2½d.

The actual amount of labour exacted from a convict is by no means excessive ; it is the deadly monotony of his task—with never an interval of relaxation—which preys upon him, much more than its severity. For this reason many prisoners (chiefly of the habitual class, to many of whom all regular work is abhorrent) prefer an occasional period of close confinement, on a diet of bread and water, to the



daily grind in workshop or quarry. But I shall return to the problem of labour.

At eleven o'clock the whistle goes "Cease work"; and at this hour the lag who has been at it since a quarter-past seven is ready to eat his boots. At 11.15, "Fall in!" calls the principal warder on duty, and every tool, spade, and barrow is relinquished; the men don their "slops," or outer jackets, and all the gangs are quickly marshalled, and the march back to the prison begins. This time the civil guards, converging from their various stations, bring up the rear. Arrived on the parade-ground, the men are searched or "rubbed down" again, that no one may carry a convenient tool into his cell; and the process of counting and checking the numbers is repeated as in the morning. Then the men are marched to their cells for dinner.

When I visited Portland, Monday's and Saturday's dinner for prisoners on full diet was five ounces of cooked beef, thickened and seasoned with flour, onions, and pepper, a loaf of bread, and a pound of potatoes. On Tuesday and Friday, a pint of soup, containing shins of beef, pearl barley, fresh vegetables, onions, flour and pepper, bread and a pound of potatoes. Wednesday, five ounces of mutton, flavoured and thickened as above, bread and potatoes. Thursday, a pound of suet pudding, with the usual allowance of bread and potatoes. Sunday, bread and cheese.

H. J. B. Montgomery, the very intelligent ex-convict whom I have already cited, and whose articles in the *Nineteenth Century* and elsewhere are always of value, says:—

"Any person who has had the misfortune to be in gaol, more especially in a convict prison, is

painfully aware of the fact that food is a perennial topic of conversation, a fruitful source of complaint and discontent; and it is scarcely to be wondered at."

Lord William Nevill (the "W. B. N." of that interesting and candid work "Penal Servitude"), who served his time at Parkhurst, devotes a chapter to the subject. Mr. Balfour discusses it at about the same length in "My Prison Life." Scarcely a writer on prison (Oscar Wilde himself makes a delicate reference to it) has been able to escape from this theme. The Asquith Committee took the fleshpots in hand with the thoroughness they gave to everything. Nay, a Home Secretary, Sir Matthew White Ridley, appointed in 1898 a Departmental Committee on Prison Dietaries.

Well, has the commissariat had too much notice?

Perhaps not, if we weigh these words from the report of the Departmental Committee:—

"The dietary has an intimate relationship with all the other elements of prison life. On its proper adjustment to the requirements of the average prisoner, and the manner of its application and administration, must depend in large measure the successful working of the whole prison system."

With this backing we may take a turn around the kitchen. Parenthetically I may say that I have dipped into capital messes in prison (to this day I remember a most grateful broth that I drank one chilly morning in Mountjoy Prison, Dublin), but the master-cook may have an eye to a visitor. The point is, how fares it with the inmate?

The Prison Commissioners, observes Montgomery,

“have drawn up a scale of dietary sufficient, and not more than sufficient, for the average man, *provided he gets it*; too much for a few men, and far too little for many men—probably most. I have advisedly said ‘provided he gets it,’ and this is a very large proviso. There are many persons in gaol interested in seeing that the prisoner does not get his allowance. Not to put too fine a point upon it, there is a considerable amount of roguery in reference to both the quantity and the quality of the food provided for prisoners. There is an utter, or almost utter, lack of supervision over the persons responsible for ordering these supplies, and checking the quantity and quality supplied, while in the kitchen there is still further leakage or wastage.”

Portions of Nevill’s criticism are to the same effect, and it may be added that Lord William is another ex-prisoner whose strictures must be taken seriously: neither in his work nor in Mr. Balfour’s is there a malicious or querulous expression. “One Sunday,” says “W. B. N.,” “which was known as pork-soup day, because the dinner consisted then only of one pint of pork-soup and eight ounces of bread for full-labour men—the pork that the soup was made of was absolutely putrid. . . . The next day there were so many complaints to the Governor that he investigated the matter very closely. It came out that when the meat was issued to the master-cook on the Saturday, he pointed out that it was tainted. . . . The steward, however, told him that the meat must be used. On Sunday, of course, it was quite unfit for human consumption. If a butcher had exposed it for sale he would have been heavily fined. . . . Colonel P——, who was then Governor, was very much put out by this

occurrence, and well he might be, for if we had eaten the soup, a good many of us would have been poisoned. He therefore ordered four ounces of cheese to be given to each man for supper on Monday, as compensation for the loss of their dinner the day before."

The purely anonymous book about prison is usually to be received with caution, but a connoisseur of this literature should be able to taste with some discretion, and when anonymity and the signature are in harmony a quotation carries no excessive risk. Here, bearing on the subject, is an excerpt from "Convict Life" by "A Ticket-of-leave Man."

"In the party with which I worked at Portland there were half a dozen men who fed themselves daily upon snails, slugs, and frogs. . . . I was for a short time attached to a party whose duty it was to drag a cart about to collect ashes and rubbish from the different departments of the prison. It was considered by a certain class of prisoners quite a privilege to be attached to the 'cart party,' on account of the refuse food and poultices which could be fished out of the infirmary ashes. To men of this class no diet would be sufficient, but it may be asserted with confidence that the prison fare served out to them is better in quality, more cleanly, and of larger quantity than they have been accustomed to enjoy in the places which they call their homes."

An ex-convict, Mr. E——, examined before the Asquith Committee on Prisons, spoke much more strongly respecting the insufficiency of the rations in the public works prisons. "A man who has to work squaring stone, or using a pick, or wheeling barrows, is really starving. I know that is my own

experience. When I was at Portland I have eaten things I am almost ashamed to tell you of, and others have done the same ; and when men do that they must be terribly hungry." Asked whether the men complained very much of the insufficiency of food, the witness replied : " Almost every prisoner on the works would do that. I can imagine what they said when they thought they were going to get four ounces extra bread, when all the refuse they can pick up is eaten by them ; and you have only to look at the men at Portland to see that they have no flesh on them. It is a very cold place, and you can imagine what it is to be working like this, and going nearly six hours without food."

As may be supposed, the hungry man in prison will adventure far to satisfy his cravings. Good-natured prisoners are often in trouble for an attempt to " sling toke," or pass food, to a comrade with a yearning stomach. The warders are bribed into service, and an illicit traffic in small food-stuffs of the piquant sort seems a recognised industry of the place. A certain Frederick Martyn, author of one of the latest volumes on prison, cynically entitled " A Holiday in Gaol," tells of a warder who tried to cozen some secret from him with a promise of ham sandwiches at night. This, however, is another side of the picture ; it is oftener the warder who is bribed for food by the prisoner than the prisoner who is bribed with food by the warder. Sometimes the game is given away by being carried a point too far. Martyn reports a conversation that followed a general search among suspected prisoners :—

“ ‘ Who was it gev the game away—did you hear ? ’ ”

“ ‘ Nobody give it away as far as I know ; it give itself away by bein’ carried too far. It was all the fault of an adjectived fool that was rotten with money and wanted all sorts of things brought in. He wasn’t satisfied with a bit of snout, an’ a chop or steak or bit of ’am an’ a drop of port wine, but he wanted noosepapers an’ cigars and fancy truck of all kinds, an’ the screw took to bringin’ of ’em in because there was any amount of money knockin’ about. They do say that he was at the screw ter bring him in a mouth-organ, but the screw struck at that, an’ told him that he barred mouth-organs an’ even grand pianos.’ ”

“ ‘ It’s allus the way,’ sighed the other, ‘ when you’ve got a screw properly straightened there’s allus somebody spoils the game by being too greedy or too careless.’ ”

Balfour says of the dietary :—

“ So far as I personally was concerned, it was considerably more than I could eat, and I always had something to give away to fellow-prisoners every day. It was against the rules, of course, but no less a personage than the Right Hon. John Burns stated, I believe in the House of Commons, that when he was at Pentonville he was glad to carry off in his breeches the illicit loaf which some less hungry fellow-prisoner had given him. I solemnly declare that to a great number of prisoners penal servitude is certainly not starvation or semi-starvation, but one long hunger.”

After glancing at the case of “ a man who had occupied a prominent position in the commercial world,” and who tried to appease his hunger by



devouring the marrow he extracted from the decayed bones which he was employed in crushing for manure," Mr. Balfour continues :—

"It was also part of my punishment to be surrounded all those long years by half-fed men whose talk was always of food. There is something almost horrible in the fact that the man who gets a 10-oz. loaf is regarded with envy as a lucky fellow by those who only get an 8-oz. loaf. There is something pathetic, too, in the fact that the convict, with a little practice, is able to weigh exactly his loaf in his hand. He can tell within a few grains whether it is up to weight or not. For some months I had charge of the scales which are kept for weighing the rations when a convict desires it, and when I speak of men always hungry I speak of what I know."

If anything were to be looked for from their deliberations, we might ask for another Departmental Committee on Prison Dietaries !

On the return of the warders from dinner (the single men mess in their own quarters within the prison walls, the married ones go to their homes in the village) they are paraded by the Governor or Deputy-Governor. The cells are then unlocked, and there is another parade, counting, and "rubbing down" of the prisoners ; after which they are marched out again to the works.



## CHAPTER IV

### PENAL SERVITUDE: A TASTE OF LIFE AT PORTLAND (*continued*)

THROUGH the whole of convict life runs the mark system. To every man is assigned the duty of earning a certain number of marks, proportioned to the length of his sentence. In fact, as remission of sentence is never granted for conduct, the time which the prisoner in penal servitude must pass in prison is represented by the number of marks which he earns by labour performed. If he earns them at the highest rate, and loses none by fines for misconduct, he procures the remission of one-fourth of the time that he passes on public works. If he earns them at a lower rate, he gains a smaller remission. The scale of marks is :—

8 marks a day for steady hard labour and the full performance of the allotted task.

7 marks a day for a less degree of industry.

6       ,,               ,,       fair but moderate day's work.

Convicts in the light-labour class can seldom earn more than six or seven marks a day, and those in hospital never more than seven, unless their confinement has resulted from accident on the works.

The population of a convict prison contains representatives of every crime known to the calendar—murder, manslaughter, burglary, forgery, theft

in all its branches, and every conceivable form of robbery and swindling. It is interesting to note the extraordinary self-control, patience, and obedience to discipline exhibited here under this relentless rule by men whose lack of self-control in another state has subjected them to it. The late Michael Davitt, a political convict who saw the inside of many prisons, and whose "Leaves from a Prison Diary" is even now extremely well worth reading, divides into four classes the inmates of one of these vast, unwieldy, overfilled houses of punishment. In an average roll of twelve hundred men (there were about a thousand in Portland when I visited it), it will be found, he says, that six hundred pass through their terms of imprisonment "without a single report having been made against them for breach of discipline—a discipline probably without a parallel in its treatment of human temper in any other services, civil or military, in the world."

Three hundred more "will be reckoned well-conducted prisoners by the Governor," with no serious charge ever laid against them. Two hundred and fifty more "will comprise very troublesome prisoners, that is, men of a refractory disposition and guilty of occasional outbursts, against whom there are frequent reports." The remaining fifty "will be almost entirely unmanageable, desperate in their attacks upon fellow prisoners, and occasionally upon prison warders, and apparently insensible alike to the kind advice of chaplain or priest, or of any leniency or punishment at the hands of sterner officials. It is by prisoners of the latter class that warders have been occasionally murdered in convict prisons."

It is further deserving of note that the best-con-

ducted men in prison are often the most dangerous when let loose upon society. Thus the first class is principally made up of "old jail-birds—men who are thoroughly inured to crime, but who are too familiar with the penalties of insubordination, from former prison experience, to invite extra punishment by coming into conflict with the rules and regulations."

The murderer who has escaped the gallows for a lifelong sentence of penal servitude is almost always an exemplary prisoner; and Captain Harris told me that men passing into the prison on a first conviction, under the frightful sentence of twenty years, seldom give trouble to the authorities. Men more difficult to control are those who, having previously served a short sentence of penal servitude, have been punished for a second grave offence with a term of ten or fifteen years.

The second class comprises the thievocracy, which takes in "both the higher and middle ranks of the aristocracy of crime." To this extensive class belong the professional burglar, the accomplished swindler, the dealer in "snide," or base coin, the "swell" thief (who is never a pickpocket, but pursues his calling in hotels, West End shops, railway stations, etc.), and the member of the "long firm." Most of these have been "lagged" two, three, or four times; and very few of them are ever reclaimed. They are among the many failures of our penal system. Penal servitude is powerless either to reform or to deter them; their terms of imprisonment are mere gaps in an otherwise unbroken course of crime; and their recreation in prison is to whisper to novices their triumphs of the past, and to plan with older hands new schemes for the future.

“Magsmen” and “hooks” comprise the third class. The former live mainly by their wits, the latter—including the clever type of pickpocket—make more use of their fingers. The numerous guild of sharpers, the sham noblemen and parsons, the begging-letter writers, and the “confidence trick” fellows are all magsmen. Both magsmen and hooks are a troublesome lot in prison. They are so well known to the police that they have little inducement to shorten their sentences by hard work and obedience; and as both orders are constitutionally incapable of industrious labour—which they despise not less than they detest—they pass a considerable portion of their time in the punishment cells; and sometimes forfeiting by continuous misconduct the whole of their remission, they are kept in separate confinement during the last six months of their sentences.

Three types are included in the fourth class, the “bruiser,” the “bounce,” and the “common bounce.” The first is, according to Davitt, “the nearest approach to Dickens’s hero Bill Sikes, so far as the criminal in the flesh can well correspond to that of the novelist.” He adds that “murderers are never, however, found in this class in prison.” The bruiser is a compound of pugilist, bully, sneak, and cadger; an incorrigible ruffian out of prison, and dangerous when in it both to his fellow-prisoners and to the officers. He seldom passes out of prison without having had one or more interviews in the flogging-room with the warder who wields the “cat.”

The “bounce” and the “common bounce” are of a type still lower. Both are professional leviers of blackmail; and the “common bounce” in particular is a creature whose favourite and peculiar

crimes will not bear description. He is generally loathed by his companions in penal servitude.

It is in the third and fourth of the classes named that the "malingerers" are most commonly found, who feign sickness, disease, or insanity, in order to escape hard labour or procure admission to the infirmary. There are scores of these men in every convict prison, who tax to the utmost the skill and ingenuity of the most experienced doctors in the service. The most determined and persistent amongst them do not stick at self-injury, and will inflict tortures on themselves to gain their desired haven, the "farm" or hospital. They chew and swallow ground glass and bits of iron, eat poisonous insects, poison their flesh by inserting into it copper wire or rusty nails, and bury needles in their feet to lame themselves. Some will feign paralysis, epileptic fits, or sudden attacks of insanity; and others will keep an arm or a leg in one position for weeks together, until the power of using it is lost. Men lie buried within the walls of every convict prison who have literally done themselves to death in their determination to "best the croker" (doctor).

The worst of it is that the quiet and steady-going prisoners suffer for the misdeeds of the malingerers and the malcontents. Men really needing the doctor's attention for some obscure or subtle ailment are liable to be suspected of and even punished for shamming; and the ceaseless revolt against discipline on the part of a minority of the convicts is in a measure responsible for the constant and irritating surveillance and hard, unbending rule to which all alike are subjected. Day or night, no prisoner can ever escape the watchful eye of his warder. He is under observance during every hour

that he is at work ; if he is detached from his party and sent elsewhere, though only for five minutes, a warder is told off to accompany him ; and even in his cell, where, if ever, he may be said to be alone, the warder views him through the spy-hole in the door.

It is a tough or a very resolute nature that can oppose itself throughout a course of years to all the coercive forces of a convict prison. For the resources of the governing body are considerable. The powers of punishment vested in the Governor, though limited in certain directions, are sufficient to enable him to make life burdensome to prisoners who seek persistently to defy the rules. A convict who will not work, who "cheeks" the warders, bullies the mates in his gang, uses foul language, smashes his cell furniture, or tears his clothes to ribbons, and who persists in one or more of these diversions, can be practically starved into obedience by a diet of bread and water. He can be locked in his cell for weeks at a time, cut off from all communication save with the warder who has him under constant, close surveillance, and exercised only for a limited period in the morning, alone in a narrow yard. If his hands persevere in mischief, there is a "chain room" containing a very varied assortment of handcuffs, manacles, and body belts, and a heavy canvas dress which no fingers could rend. With the punishment of flogging, now very greatly restricted, I deal in a separate chapter.

Exceptional punishments are of exceptional occurrence in every convict prison. The intelligent criminal—and his name is legion—knows well that he has nothing to gain and a great deal to lose by kicking against the pricks. A small minority excepted, the lag in prison is governed by two ideas—to make life there as tolerable as possible and to get



out as soon as he can. He can secure toleration by keeping within the rules, and he can shorten his sentence by diligence, or the show of it. So he does his best, not only to earn his full total of marks by industry (or a reputation for industry) on the works, but also to avoid losing them through the fines which are among the invariable penalties of the slightest misbehaviour.

When he knows the routine—in what minute particulars he must be constantly obedient, and in what others he may contrive to infringe the rules with comparative impunity—he manages to work out his sentence with a modicum of annoyance and discomfort to himself. There are men who feel the shame and bitterness of their position every day that they pass in a servitude of years; but this sense of day-long and year-long wretchedness is not general, even amongst the felons who are to be pitied rather than condemned; and the placid face so often seen in communities of convicts is the not unfaithful index of a mind that has schooled itself to bear, with much fortitude and something of contentment, a fate that involves present pain and a possible future of indelible disgrace. Leaving out the cases in which sympathy is difficult or quite impossible, there are examples of patient heroism in the convict world (including both the worst and the most unfortunate of men) which have seldom been equalled, and which have never been surpassed, in recorded history.

One relief, the sole perhaps that makes a sentence of penal servitude endurable, is the opportunity of talk which comes with the change from separate confinement to public works. Talk is all but utterly forbidden, but there is no preventing it. Were it



possible to prevent it, the men under long sentences would hardly keep their reason. Much of the talk that is mumbled in half-tones between old lags working in the same gang is a jargon which few but themselves and their kind understand. Of this strange tongue, the slang of thieves and all the criminal folk, Canon Horsley, one-time chaplain of Clerkenwell prison, writes in his "Jottings from Jail" :—

"It has its antiquity, as well as its vitality and power of growth, and development by constant accretion ; in it are preserved many words interesting to the student of language, and from it have passed not a few words into the ordinary stock of the Queen's English. Of multifold origin, it is yet mainly derived from Romany, or gipsy talk, and thereby contains a large Eastern element in which old Sanscrit roots may readily be traced. Many of these words would be unintelligible to ordinary folk, but some have passed into common speech."

Here is a sample from Captain Harris's work on "Dartmoor Prisons" :—

"I buzzed a bloke on the fly, and nicked his poke with two five and a quid ; but got bested before the beak, for the copper knew I did the job, and gave me a drag over it."

Translated into ordinary English it reads thus :—

"I picked a man's pocket as he was walking along and secured his purse containing two five-pound notes and a sovereign ; but when brought before the magistrate I got the worst of it, for the policeman knew that I had committed the offence ; and I received three months' imprisonment in consequence."

As a sample of thieves' Latin, I cull the following from Davitt :—

“ A uffima, ill olloswa a alewha. Itchpa the idesna, or utpo the ukedo in the obfa.”

In ordinary thieves' slang this would be : “ He is a muff, and will swallow a whale. Pitch the snide, or put your duke in his fob.” In plainer English it would read thus : “ He is such a confounded ass that he will stand almost anything. Try the counterfeit coin, or pick his pocket.” The peculiarity of this lingo is, it will be observed, the transposition of the syllables of words containing more than one syllable, “ and making two syllables of all words having only one in ordinary pronunciation by adding a vowel or liquid consonant to the first or second part of such word.”

All convicts admit that, despite the close observation of the warders, there is comparatively little difficulty in making communications in prison. In the cells they have a method of telegraphing by a tattoo on the walls ; and on the works there are means of communication by signs and the working of the lips, not unlike the “ talk ” of the deaf and dumb. But all conversation in the prison is not of this sort, nor is it all foul or criminal. A convict population never lacks brains and intelligence of a high order, and many men who had little or no book knowledge when first convicted become sufficiently well versed in the literature of poetry and criticism, through the books received from the library, to be able to talk well and with pleasure on these subjects as often as they get the chance. They are great critics of sermons, and there is immense interest throughout the prison when a new clergyman comes in from

the outside to take the chaplain's duty on Sunday. On the works next morning his discourse is often most intelligently sifted.

The day begins to bend ; the afternoon's graft is over. At 5.15 the welcome order is once more given to fall in, and after the march back and the search on parade the men are returned to their cells, not to leave them for another twelve hours.<sup>1</sup> Supper is served at about a quarter to six ; a pint of cocoa and a " sixer," or six-ounce loaf of fresh brown bread. An old lag can tell in an instant, by weighing his loaf in his hand, whether it is half an ounce short of the regulation quantity. After supper the reading men turn to their books ; the rest doze till bedtime, or polish their tins, or hold a quiet palaver with a chum in the adjoining cell. At a quarter to eight the hall warders issue the order to turn in, the hammocks are slung in a twinkling, and every man is curled up at five minutes to eight, when the lights are put out

<sup>1</sup> The impression, by the way, is apparently a wrong one that the convict lives most of his time in the open air. Balfour remarks that "by far the longest portion of every day is spent . . . in very rigorous and often very demoralising close confinement." He supplies a table :—

	HRS.	MIN.
From midnight to 6.55 a.m. . . . .	6	55
From 11.20 a.m. to 12.55 p.m. . . . .	1	35
From 5.15 p.m. to midnight . . . . .	6	45
	<hr/> 15	<hr/> 15

To this he adds a further "4 hours and 20 minutes on Saturday afternoons, and 3 hours and 25 minutes on Sundays. This, therefore, makes close confinement for—

	HRS.	MIN.
Five days a week . . . . .	15	15
Saturdays . . . . .	19	35
Sundays . . . . .	18	40

Of the 48 hours which make up Saturday and Sunday, no less than 38 hours and 15 minutes are spent in close confinement !"

for the night. The guards are set, and very shortly after eight the prison is more or less at rest.

Not until the prison is closed for the night do the warders themselves know much relief. They have a longer day than the prisoners, and pretty nearly as dull a one. The work is close and hard ; trying, wearisome, and not without danger ; another form of penal servitude. A fortnight's holiday in the year is almost their only relaxation in a life disciplined scarcely less severely than that of the men they are appointed to guard. I asked an old officer at Portland what comparison he would make between the life of a warder and that of a policeman. His reply was : " A policeman's life is like a warder's off duty." Men entering the prison service from the army find that " hard labour " has but just begun for them.

Of warders, much, I suppose, might be said. Nay, much has been said. Old hands often (though by no means always) have a rough word for them. A kinder word is used by many younger ones ; and I have known of some that sent thanks through the post to officers they had spent years with in convict prisons. Outward acts of kindness on a warder's part are, I fancy, difficult and even somewhat dangerous ; for every officer concerned with discipline is subjected to close surveillance, and just as liable to report as the convict in his charge. But influence of the silent or semi-silent sort goes far, even in this narrow and unwholesome sphere, wherein suspicion—every one suspecting every one—is the noxious breath of life. Character, too, goes far in prison. An upright officer is known, and seldom unesteemed. More or less mutely he can aid the men he has in keeping—the men who look so mean with their

shaven heads, the men in the cage of prison, the men whose rights have passed from them—and, not rarely, I believe, he does so. The convict, as a convict, is of course beheld in full blaze of discredit, damaged goods—the very ugliest on show ; but, allowance of the utmost made, convict in contrast with warder is the derelict in contrast with the able man.

Mr. Arthur Paterson, in one of his articles in *The Times*, admirably stated the case for the staff:—

“As a whole, and in spite of black sheep, the staff of our prisons are men and women of whom the nation should be proud. They are neither callous nor hard in their attitude to prisoners. They strive, with a courage and devotion unknown to the public outside, toward the ideal set before them—to reform those in their charge. When they fail, it is not so much from want of effort as from the difficulties and obstacles which are in their path. Sometimes they succeed not only in doing good to those they serve, but in awakening a real or permanent feeling of gratitude and friendship.”

For the present this glimpse of penal servitude may suffice. To the flagrant inutility of it as a punishment, already glanced at in the opening chapter, I shall turn again.

## CHAPTER V

### THE PROBLEM OF PRISON LABOUR

Few persons know how difficult a task it is to task the prisoner. I mean, of course, to keep him going at useful, wholesome, and stimulating work. "Three years' penal servitude," says the judge in one case. "Six months' hard labour," says the magistrate in another. Very easily said on either hand; and doubtless the reader of the sentences in the morning paper thinks it quite as easy a matter to assign to each delinquent (the first, perhaps, a merchant's clerk, the second a violent young subject from the slums) his proper labour as a duly convicted criminal. There is nothing easy about it. It is one of the most provoking problems in the vexatious world of prison. Let us see.

First, though, we must take a glance at modern prison history.

During many years after the date (1853) at which penal servitude began to be substituted for transportation, the local prisons—as distinguished from what were then the new convict establishments—went on anyhow. They were in the hands here of one authority, and there of another, and seldom were two authorities of a mind as to the way in which a prison should be managed. A man might be "doing his bit" quite comfortably in a gaol down South; and some other man—same offence, same sentence—



might be roughing it horribly in gaol up North. The art in those days was to be "lagged" in a place where you could be busy at your meals and not too busy at your work.

It is, however, on record that in many of the local prisons of those days much work was done. There is the celebrated instance of mat-making at Wakefield. The mats manufactured in Wakefield Prison fetched £40,000 a year. Prisoners working well got nice gratuities, including sometimes a mutton chop at Christmas. Dr. R. F. Quinton tells us (in his lively volume "Crime and Criminals") of a prison he once served in as medical officer:—

"It was conducted by the local authorities on a self-supporting, if not a profit-making basis, under a Governor who had considerable business capacity. He made gas for the establishment, he had a successful iron foundry, and carried on carpentering and cabinet-making on an extensive scale, turning out handsome walnut wardrobes and tables, and he had even made a billiard-table. He had, besides, some minor industries, among which was sugar-chopping, on which he made a respectable profit, although he reckoned that a new hand at the work ate the full profits of his own industry for the first two days, after which surfeit he became temptation-proof. The prison was a hive of industry, and the bees seemed to enjoy a corresponding sense of freedom."

Not all the local prisons, to be sure, were organised on these lines; but, in general, work of an industrial sort that could be made to pay was favoured and encouraged. Governors were allowed a very free hand in developing the industries best suited to their



prisoners, or best likely to secure a market in the neighbourhood of the prison ; one prison competed with another in producing and selling a variety of goods ; and while the Governor who took an active interest in trade might expect a bonus at the end of a profitable year, the warders on the industrial staff were heartened by higher pay and special grants. Substantial profits, in a word, showed the way to promotion in the service.

But while all this was going on some old-fashioned and very foolish kinds of purely penal labour were still kept upon the programme. Until within the past fifteen years or so authorities of prisons were stiff on the principle that useless work was useful to the convict. They held that it disciplined him. It did discipline him. It disciplined him to a detestation of work of every sort. Not in the least realising this, the authorities mounted him on a treadmill or treadwheel, or set him at the crank, the capstan, or shot-drill. The treadmill is the most distinguished example of the unproductive toil that hardens men against the mere notion of work and makes them cunning to evade it. The daily task on the " mill " was an ascent of 8640 feet. That is to say, on prison food and in the prison air (the treadwheel was enclosed in a sort of shed or barn) the man climbed every day considerably more than twice the height of Mount Snowdon. Oftener than not the " mill " was merely grinding air, and the prisoners knew it. It is the simplest business in this way to make a criminal. The man on the wheel vows that once out of prison he will never work again ; and he never does—except at crime. The treadwheel and the other ideal expedients for persuading felons that work is the accursed thing were at last abolished.

On a sudden the whole scheme of prison was transformed. It underwent, at any rate, an absolute modification. By an Act passed in 1877 the local prisons were transferred to the Government. In one day 120 gaols were taken over and consolidated into about sixty. In the briefest terms, the capital result of the transfer was uniformity of administration in every prison in England.

A transformation so complete would affect the whole institution of prison as it had been. What was most affected was the labour system. The allowances received by warders for pushing on the trades were stopped; there were no more gratuities to prisoners for extra work (and no mutton chops at Christmas); and the Governor went without his bonus. The Prison Commissioners, who, under the Home Secretary, had now become the central authority, were not, of course, intending to put a check upon labour, and most of the industries hitherto in favour were still carried on; but it is clear that the persons directly concerned in them had lost a great incentive. Briefly, the industries which under the old system had been slightly profitable to the prisoners themselves, more profitable to a numerous class of warders, and still more profitable to Governors, were gradually reduced to a part of the common dull grind of prison life. Everything else fell before "discipline." Discipline was put in the very front of the programme. Prison had been remade into a vast engine of punishment.

Then there was the trouble with the trade unions. I have shown to what a comfortable tune mat-making was conducted at Wakefield. In many other prisons also it was a lucrative employment, engaging altogether nearly 3000 hands. All at once the mat-

making in prisons was practically suppressed. Mat-makers outside rose in their numbers; Parliament was implored to interfere—and the prisons had to drop that industry. Here it may perhaps be asked whether on the whole we have not heard a little too much concerning the competition of prison with the free worker? You cannot in any way compare the prisoner with the skilled free workman. If the prisoner were twice as efficient as he usually is, and if the whole population of prison were available the whole year round for the higher grades of industrial employment (and this is very far indeed from being the case), the interference with labour in the open market would be increased in no more formidable proportion than 1 to 2500. This seems a percentage which the trade unions might somehow contrive to ignore!

These and many other things of interest were discovered (at least, to the readers of Blue Books) in the ever-admirable report of the Departmental Committee of 1894, appointed by Mr. Asquith and presided over by Mr. Herbert Gladstone. It is not to be inferred that at this date the general labour of prison was in a state of paralysis; but the Committee made plain the fact that while under the new order discipline was growing more perfect every year—and the prisoner being transformed into a well-drilled and astonishingly obedient automaton—the gainful industries of the 'seventies were falling away, and far too much was being made of the punitive and unproductive forms of labour.

Again, the short sentence had been coming into vogue. Now, though it is very shocking that a man should get five years who can be adequately punished with six weeks, it is certain that in the shorter period

he can be taught nothing that will be of any real profit to the prison, nothing that will be of the smallest profit to himself on his release. Make the six weeks' sentence (but pray not without good cause!) a sentence of three months, and in this time a prisoner of moderate intelligence would just get a fair notion of that simplest of all trades, mat-making. The greater the number of short-sentence men in your prison the smaller the chances of success with your industrial programme; and the short-sentence men are nowadays very many, and the long-sentence men are comparatively few.

The Asquith Committee was the first that ever heard a proper and exhaustive statement of the labour question; and from the mass of testimony submitted—often, of course, in some degree conflicting—a bird's-eye view was obtained of the general situation in 1894. It was a disordered and an absurd situation in the main. The industries of prison had gone a good deal to wreck. Partly to blame for this was a juster and kinder application of the law, and partly also the signal change that had come about in the administrative policy. The officers responsible for discipline in the prisons had walked over the heads of the officers responsible for trade. Militarism in management was the note and order of the day. Nobody at this date was much concerned in giving a fillip to the industrial energies of the prisoner; but in some other respects prison was marching beautifully; and never were there such fine-drilled, dumb, lamb-like creatures in the cells. They were learning nothing of any account, but their behaviour on parade and in chapel was elegant. "Everything subservient to discipline"—the condensed evidence of many witnesses—sums up the main situation.

Governors and their subordinates had left off looking for promotion through the balance-sheet; and under the drill-sergeant process, which had started almost at the hour of the transfer, the industrial occupations of prison were snubbed.

The Asquith Committee made an heroic attempt to set the labour of prison up again. The Report they sent forth with an immense book of evidence is the one live official document about prisons and their government that we owe to the closing years of the nineteenth century. From the recommendations of this Report have flowed some of the best efforts of the Commissioners, and they set themselves seriously to reconstruct their plan for prisoners' work. A Comptroller of Prison Industries was appointed. New instructors were given to him. The cellular system for prisoners on short sentences was reduced in extent and degree to allow the decent and industrious among them to do their tasks together instead of in solitude. A new scheme was slowly introduced for the training of prisoners below and up to the age of twenty-one.

Since 1894 it has been a struggle and a compromise between militarism, or discipline, and the new industrial endeavour and ideal.

One thing may be said: the Commissioners, with their Comptroller of Industries and his staff, do not cease pegging away at the portentous problem. But in what a situation do they find themselves! They have somehow to provide with daily work a population of about 22,000 criminals (convicts and locals included) in places of which scarcely a single one was constructed for any industrial purpose. True, I have seen excellent, roomy, and well-lighted workshops in Wormwood Scrubs, Wandsworth, and

Borstal ; but good workshops in prison are exceptional, and not in the very best of them is there the machinery or the expert professional assistance that would be indispensable in a second-rate manufactory. As the Commissioners themselves observe in one of their Reports (1909-10), "the old prisons, taken over in 1878, were built almost exclusively for the purposes of cellular confinement during the whole of the sentence, and can only, by the most ingenious contrivances, and economy of space, be made available for associated labour."

Next may be mentioned the permanent difficulty of a market for things that are or might be made in prison. Local industries could doubtless be worked up for the larger local prisons in the provinces, but the moment these began to flourish the ridiculous cry would be heard again that the felon was spoiling the job of the British labourer. Not only are prisons seldom situated where business could be decently pushed, but, if they were so situated, and could succeed in creating the business, they would never be suffered to push it to any remunerative figure. Dr. Quinton puts the matter truthfully and with humour when he says that the Commissioners "at present have what might be called an old-established family business" with the various Government Departments. In fact, the General Post Office, the Admiralty, the War Office, and the Office of Works are probably their chief customers. Time was when convicts at Dartmoor (whose traditional employments are farming and the reclamation of bog-land) were making baskets for the London Post Office ; when Portland (supposed to be devoted to quarrying and stonework) was making tin paper-trays for Whitehall ; and when Manchester Prison was washing the linen of



most of the Public Offices ; but in recent years these things have been better and more economically ordered.

Here, therefore, are two enduring and ever-troublous factors of the problem of work for prisoners : (1) the very nature of the prison buildings, and (2) the want of a general market. But there is a third factor a thousand times more plaguy than these two put together. It is the stuff that the prison population is composed of. Broadly speaking, this is a population ideally unadapted to the steady, sustained effort that the notion of work implies.

Many, of course, are the avenues by which prison is attained ; but to have achieved this unhappy distinction is, for thousands, to have failed in some behest of life, some relation of the social world, some adjustment that the common, careful citizen makes almost unconsciously. There are upper ranks, and middle, and lower, and lowest ; and a medical officer with thirty-five years' experience of prison tells us that the differences in degree of criminality " between the inmates of a convict prison and those of a local prison are so marked that passing from one to the other is like a transition from university to preparatory school." Lord William Nevill (" Penal Servitude ") rounds up his associates at Parkhurst. " Certainly, we had enough variety to make a harmonious whole. I think amongst us we represented almost every class and profession. There were ex-clergymen, ex-dissenting ministers, ex-doctors, ex-solicitors—these in overwhelming proportion to the others—soldiers, sailors, schoolmasters, bank managers, and for a time one ex-M.P." For a more extended and detailed list (as has been shown) the pages of Michael Davitt's " Prison Diary "

lie open. These are the dwellers in the convict prisons ; in the criminal world they mean the clever and high-up people—sometimes also, unquestionably, the very unfortunate.

Then, what a wretchedly variegated crew is received, on longer or shorter sentences, the whole year round, in the local prisons ! There may be, and undoubtedly are, a great many regular criminals passing in and out of the local prisons—petty thieves, swindlers, the numerous tribe of begging impostors, the more numerous tribe of rogues and vagabonds—but Dr. Quinton declares that very many other local prisoners “ have, for the most part, so little of the criminal in their composition that they hardly deserve the name.” From the point of view of the organisers of prison labour we have to remember that in the population of a local prison there is neither permanence nor homogeneity. Some one hundred and fifty or sixty or seventy thousand persons are in and out of these places from January to December. The casual creatures in every local prison, embracing all the physical and mental degenerates that the Royal Commission had to do with, are perpetually shifting, and the length of his sentence radically affects the capacity or incapacity of each individual prisoner. In a word or two, throughout the local as distinguished from the convict prisons, there is scarcely one favourable circumstance for the creation and development of industrial work.

Yet, again, these prisons are eternally crowded with persons whom it is expensively useless to send to prison at all—imbeciles of every age, habitual drunkards, and a host of weak-minded offenders for whom no discipline avails, and who can not only never be brought to understand what punishment

means, but who are in no sense proper subjects for the prescriptive punishments of a gaol.

“The general practice in large prisons,” says Dr. Quinton, “is to place them in gated cells, with an officer patrolling to keep them in order, or to have them in an association ward under the care of an officer who, by tact and patience, tries to bring them into line, and extract from their combined energy a little light work with clean and tidy surroundings.” These poor derelicts are pitched by the thousand into prison every year, stay there awhile, are discharged, and return again. Is it realised what the State has to pay year after year for their encumbrance of the prison service? What sum, I wonder, does the Comptroller of Prison Industries enter to their credit on the labour sheet? The average annual earnings of prisoners in all our prisons range from £12 a head to a trifle over £13 (the highest recorded is £13 7s. 1d.). What is the figure to the debit of the imbecile whom the unwisdom of the Bench continues to consign to gaol?

Unfortunately, the case is not conspicuously better in the convict prisons. Here it is possible to attempt something in the way of serious industrial training, but here also the human material is faulty, and here also—the circumstances and conditions of prison being what they are—it is permanently difficult to find the right work for the right man.

Some men in prison will turn their hands naturally and aptly to anything that comes along. In the local prisons housemaids' work is done to perfection by “habituals,” who, in a state of freedom, despise any kind of manual undertaking. They are as brisk as bees at washing, scrubbing, polishing, serving meals, waiting in hospital, and so forth. So, in

convict establishments, the adept burglar is often a capital and willing workman. Of necessity a deft and handy man, and a man of some method, he can do most things he has a mind to. If tractable, he is a man whom any warder likes to have in his party.

But a large proportion of convicts are first offenders—technically known as “stars.” Take, in this class, the educated men, professional men, men of the City, men who have lived by brainwork of whatever sort. If these men have ever practised at a craft it has been in the nature of a hobby; the probability is that few of them know in the least what it is to labour with their hands. Some are old, or mounting in years; others of sickly or enfeebled constitutions.

Mr. Jabez Balfour, who during a term of eleven years saw the insides of many prisons, says (“My Prison Life”):—

“Take the great bulk of ‘star’ prisoners. They are by education, character, and age very ill-adapted for hard manual work of any kind. It is hopeless to expect that a middle-aged or elderly banker, lawyer, doctor, or shopkeeper, still less a clergyman or dissenting minister, will, under any circumstances, make a good bricklayer, plumber, shoemaker, or tailor. If he ever had any manual aptitude he has lost it years ago. Such a man can only be put to the more primitive kinds of tailoring, the mending of torn and dilapidated garments, and even this very elementary work he will do very badly indeed.”

Such an unfortunate in a convict prison (and he is there in numbers) is, in truth, a mere load on the nation’s back, and what to do with him—what to put him to—is a question to which no answer has

been found. His work at its most sincere is little above a botch. Again Mr. Jabez Balfour :—

“To employ in mechanical work men who have never used any mechanical tools in their lives is a waste of time and energy. . . . They are bunglers when they begin, they continue bunglers to the end. They regard their work as a delusion and a farce, and the officers who watch over them look at it in the same light.”

Mr. Balfour himself (an elderly man, I think, when he entered prison) tried his hand now at mail-bags, now at printing, now at sewing, now at soldering tins, and now at shoemaking. Of his shoemaking he says : “My master told me that my work was strong, but very rough. ‘However,’ he added, ‘you needn’t be frightened at your customers ; they won’t complain.’”

Another prisoner, Mr. H. J. B. Montgomery, gives us a satirical account of convict labour at Parkhurst :—

“For three years I was in Parkhurst in a light-labour party, employed outside the prison, and during nearly the whole of that time we were employed, as the warden in charge of the party put it, ‘in looking for a job.’ Even when we found that job it was constantly impressed upon us that we must not hurry over it, because if we did there would be nothing for us to do. During the last four or five months of my imprisonment at Parkhurst I was, as a misdemeanant, employed in an enclosure. In that enclosure there is a plot of ground about half an acre in extent ; it has not been cultivated for some time. So far as I can

learn it is kept fallow in order to produce weeds. The duty of the party to which I belonged was to weed this plot of ground, and by the time we had got to the end of it there was always a fresh crop of weeds at the beginning that we could commence on anew. We were very careful never to pull any of these weeds up by the roots, because the warder in charge of the party told us that if we got out of this job there was nothing whatever for us to do. I made one day a small calculation as to the cost of weeding this half-acre of land by some five-and-twenty men; I put their wages down at a very small amount per diem, much below the market rate; and I arrived at the conclusion that the imperfect weeding of this half-acre of ground cost somewhere about £700 a year."

Let these two pictures be compared. They are not altogether unlike. In the first we have a number of educated persons—more or less past the age of acquiring unfamiliar trades—maladroitly toiling as tinsmiths, tailors, bag-makers, and shoemakers; never earning their keep, and never on any day doing a manifest day's work. The working day of a convict is in itself ridiculous by the side of a labourer's: six to seven hours in summer, five to six in winter, with endless silly interruptions. In the second we have another party of convicts (both sets alike condemned by law to the pains of penal servitude, which are taken to mean constant and exacting labour) diligently engaged by the month in doing considerably less than nothing, at an estimated cost—if such employment had any estimable value—of several hundreds per annum. In either case the occupation is worthy of Swift's Laputa.



It is stated in a recent Report of the Commissioners that the work of prison during the twelve months under notice "has been valued at £248,981." What do these imposing figures signify, and how are they arrived at? For, says the ex-prisoner whose testimony has just been quoted, "there is, as a matter of fact, practically no work for prisoners to do. It is nearly all make-believe."<sup>1</sup> This is startling, but we have also the evidence of Mr. Jabez Balfour in these terms: "I can say that I had never spent an idle day in my working life until I went to prison, and that I never had a really busy day the whole time I was there."

But there is one good thing to be presented. What is known as the Borstal scheme (it was begun at Borstal Prison, in Kent), for the treatment of young criminals between the ages of sixteen and twenty-one, has furnished us with an excellent example of what the Commissioners are able to do with fit material handled under fit conditions. Borstal takes in hand at the malleable stage certain chosen youths—including some of the toughest customers from the rookeries of London, Manchester, and Birmingham—puts them, under sensible and humane monitors, through a terribly stiff course, fits them with a trade, and finds the trade for them when they leave. They

<sup>1</sup> He adds: "I understand that very elaborate books are kept in connection with the [Parkhurst] farm, as is likewise the case in reference to every other department of the prison, and that these books show a considerable annual profit. But this profit is arrived at by the simple process of manipulating figures. Prison book-keeping is an art in itself, and, to the uninitiated, prison books and figures demonstrate clearly that every department in a prison is making enormous profits. Unfortunately these profits are lost somewhere or other—they do not reach the taxpayer, who is, accordingly, called upon to pay up about £600,000 a year, the deficit on the profit-worked prisons."—H. J. B. Montgomery: "The Waste of Labour in our Convict Prisons."

seldom return to Borstal. So far it is the best thing reported of the prison system. The Borstal institutions have gone some way to strike at the root of crime, or cut it off at the source of supply.

Almost every popular notion about prison labour is inaccurate.

It is supposed that every convicted criminal sentenced to "penal servitude" or "imprisonment with hard labour" (the terms are not interchangeable, but in reality they mean very much the same thing) is immediately, on reception into gaol, furnished with useful and salutary work, of which there is never any lack. It is supposed that prisons are fitted with all appliances necessary to the teaching and management of the various trades that are nominally conducted in them. It is supposed that prison trains up an immense number of efficient craftsmen, and turns out an immense quantity of genuinely profitable work.

These suppositions are inadmissible. They are warranted by no demonstrable facts. In its principal net results the labour of prison is a grotesquely expensive failure.

## CHAPTER VI

### THE BEST THING IN PRISON: BORSTAL AND THE YOUNG DELINQUENT

PICTURE to yourself a boy in a brown suit ; above him, in the heaven of Class I, is a boy in blue. The boy in brown cannot change his colour or class till he has put to his credit an awful total of 600 marks ; and these 600 marks he cannot earn, by the best of conduct and the best of industry, in fewer than six eternal months. Think what it means. Here comes in from the Jago a defiant roustabout of tender years, who has plagued the " peeler " and drawn blushes from the bench, and whose dear ambition has been to rise as quickly as may be into the ranks of the " 'igh mob," the full-blown swells of crime. He had probably secreted as a prize in the lining of his cap a newspaper report of his first knockdown in court. But Borstal, which represents the most up-to-date method of dealing with the juvenile delinquent in this country, chooses to perceive or take for granted that this boy is less wicked than wrong. Within an hour of his reception the Governor pays a call on him in his cell and has a great long talk with him. Every week this visit is repeated, and a gratuitous visit from the Governor is an honour quite unknown in other prisons. Here, then, is the beginning of that personal touch which counts for so much. And by

and by the boy realises that not the Governor only, but the chaplain, the medico, the schoolmaster, the warders, are all in a conspiracy to make a little man of him. Then he sees on every hand these smiling toffs in blue, some of them younger than himself, but with a lot of privileges that haven't yet come his way. This riles him. Well, what price some blue togs for himself? Blue toggery means, among other delights, sweet pudding on Sundays. He learns the price; and so it comes to pass that he sets out one day upon that awful six months' climb; the pilgrim's progress of the little fellow—everybody helping him, however. He curbs his tongue, he gives no check, he never carries on at all, he uses his hands only as things to work with. He grows an obedient heart; he learns (but oh! with what agony of inward strife) to discipline his unruly little self through every aching hour of the day. And how he studies the mark-sheet that hangs at his door! Twelve marks each week he can earn by industry, twelve by good conduct, and six by "special merit": thirty marks a week, and he must fetch up the number to 600. Really, I think this is not an unheroic little life. But one heavenly morning the sun shines upon a brand-new suit of blue. The bold boy has pulled through; has come out on top. That mark-sheet is full up; 600 marks on it; and class Number One has a fresh-faced swaggering recruit.

Perhaps few of us realise that half the crime in civilised countries is committed by young people. But we are not alone unfortunate. Other countries are discovering that the callow, fledgeling criminal is legion, and that the State which first succeeds in tackling and bringing to book the young delinquent will have the smallest criminal population in the next

and succeeding generations. From all points of view it is a question of the liveliest interest.

At the Prison Congress of 1895, held in Paris, the topic was brought forward. At Brussels, five years later, somewhat more prominence was given to it. More recently, at Buda-Pesth, it was manifestly regarded as the one thing that must not be neglected.

These quinquennial international penitentiary congresses assemble from all parts of the world—the United States, Japan, China, Cuba, Mexico, Brazil, Great Britain, and wellnigh every state in Europe—expert critics of both sexes, philosophers, legists, scientists, doctors of medicine and doctors of law, clerics, and persons engaged in prison administration. The *question pénitentiaire*, once exclusively a question of prisons, has had its scope extended greatly within recent years (the first of these congresses was held in 1872), and it now embraces all problems of penal policy. In particular it is concerned with the paramount idea of the day, the *prevention of crime*; and the corollary is the scientific study of the individual criminal, which owes more than a little to Lombroso.

A complete survey would take in the Society *Pro Juventute* in Holland, the *Écoles de Bienfaisance* of Belgium, and among other works of *sauvetage*, or rescue, in France, the *École Théophile Roussel*; but it would be impossible for me to deal with everything.

During the whole congressional week the delegates at Buda-Pesth were much occupied with the establishment of "schools of preservation or of observation," for children coming before the courts. The principal idea which the scheme contains is—in the case, of course, of the very young—the substitution, "for

ordinary methods of repression and discipline," of a course of treatment that may fairly be described as scientific. It goes by the name of "psychiatry," i.e. a study both of the mentality and of the morality of the child, with a view to discovering whether the lapse from normal conduct is due to physical or social causes, i.e. to mental defect or to bad example. This notion, a good one surely, has been for some time in the air. Interest in it was greatly stimulated by a new French law of 1904, which made provision for the establishment of these schools of observation ; and a movement in this direction may be observed to-day in many countries of Europe, as well as in America. It is, briefly, the method of individuality as opposed to the old rough-and-ready method of dealing with offenders in the lump.

The Congress, as a whole, was agreed that all young prisoners should, during the whole of their sentence, be rigorously segregated from adults, and classified according to age, character, and antecedents ; that the cellular system is not suitable to these cases, except when the sentence is very short ; and that the "progressive stage system" is to be recommended, with promotion from class to class according to industry and conduct, "and power to earn remission when two-thirds of the sentence is completed."

It was agreed that :—

"(a) Prisoners must be kept constantly occupied, and in full exercise of their faculties (*tenus en haleine*), except during meals and hours set apart for rest.

"(b) They should be taught a trade likely to be useful on discharge.

"(c) Work in the open air—farming, gardening, and vine culture—commended.

"(d) Education, secular and religious, will be



compulsory ; lessons of patriotism and of moral conduct will be impressed.

“(e) Gymnastic and military drill should be a great part of the system.”

In the form of an addendum, the hope of the Congress was recorded that imprisonment, “the ordinary punishment for juvenile delinquency,” would rapidly cease throughout Europe ; and Miss Bartlett, of the Howard Association, was responsible for the resolution recommending “to the favourable notice of all Governments, the special judicial organisation, known as children’s courts, as established in the United States of America, together with the extension of the system of probation, as practised in the same country.”

But better than Congress resolutions are the infant asylums and houses of correction for young people which were shown to the delegates at Buda-Pesth. Of State infant asylums there are thirteen, including 466 colonies, in which, in 1903, there were, under careful training, no fewer than 16,660 children. There are five reformatories, or houses of correction ; four for boys and one for girls. These are in no sense prisons ; they are schools of a curious kind : altogether very remarkable institutions to light upon among the descendants of a nomadic race of non-Aryan origin.

In the infant asylum, children of whom it can be shown that they have no parental control, or none worth the name, are received at any age under fifteen. To the houses of correction young people between twelve and twenty years of age are admitted by order of the Minister of Justice, or on a declaration by parents or tutor that the youngster is a “limb” of the toughest sort. What distinguishes in an

especial manner these "corrective colonies" is the grouping of the "boarders" into families. This is in the main quite a new fashion. Each head of a family, in the homes for boys, has twenty foster-children, and banishment from the family is one of the worst disgraces: there is no corporal punishment in the code. Games, music, athletics, and recreations are provided for. The programme of work ranges from reading and writing to applied sciences, agriculture, and horticulture. Anybody who has a mind to run away can do so—and there are, as might be supposed, very few "escapes." Save the habit of decent and industrious living, there is nothing to escape from.

For the girls there is at present only one place of "corrective education." This is at Rákospalota, a suburb of Buda-Pesth, where there are thirty-three boarders—formerly among the most ungracious young persons in Hungary—under the care of two foster-mothers. There were incendiaries among them, and several of the adroitest thieves in Buda-Pesth; one girl had made two attempts at infanticide; and another, at the age of fourteen, had helped her brother to murder their father.

In the course of five years, 116 of these girls were liberated; and of eighty of them there was a very good report.

These waifs—blown of any wind until the State entraps them, and often bred in vice for their parents' gain—are watched like plants; and it is sometimes possible to release them after a few months of mothering. There are no fixed sentences; girls and boys alike can be set free under what is known as the "indeterminate sentence."

In the midst of the many amazing anomalies

created in America by the divorce of theory and practice, two strong humanising influences stand out : Mrs. Ballington Booth, and Judge Lindsey of the Juvenile Court, Denver, Colorado.

The Volunteer Prison League of Mrs. Ballington Booth, to which in a moment a chapter shall be addressed, is a unique institution. Mrs. Booth is the ministering angel of the cell, and has veritably saved a legion that were lost.

Judge Ben B. Lindsey, "the just Jedge," is the man who tells little boys that "swipin'" doesn't pay. "Swipin'" means a heap of things, from borrowing a spade that you don't intend to return, up to flat burglary. As Maud Booth is the Little Mother of Yankee gaeldom, Ben B. Lindsey is the "Kids' Jedge" of Denver : golden titles both of them.

The "Kids' Jedge" is no "guy on the high bench" drily doling out punishment. There is next to no punishment in his system, and, apparently, no prison at all. The key of the system is friendship, and he teaches respect for grown-up law by showing the profoundest respect for "Kid law." He got to know the feeling with which boys regard the law and the bench. A boy of twelve had been arrested for stealing a razor "to whittle sticks."

"It was this way," he explained to Judge Lindsey. "The guy on the high bench, with the whiskers, says, 'What's the boy done, officer?' And the cop says, says he, 'He's a bad kid, your Honour, and broke into a store and stole a razor.' And the guy on the high bench says, 'Ten dollars or ten days.' Time, three minutes ; one round of a prize-fight."

This is not Judge Lindsey's way at all. "The Jedge, he gives a feller a show," the boys say ; and the consequence is that the boys whom he has once

got hold of never go back on him. "Gee! but that was something like a chance!" says the "Judge" to the boy who was explaining what a grand opportunity he had had of swiping something. Boys come singly and in troops to confess to and take counsel of the just Judge. Leaders of a gang persuade the whole crowd to follow them to the court, and the gang is presently transformed into a Kids' Citizens League, and plays square with the Judge. "Fine, isn't it!" says the Judge, when he has read out a letter from Kid Dawson, who had been "on the crook," and is now "making good." And at the back of all is the pervasive influence of the Judge's motto, that "there can be no justice without the love of man for man." The Volunteer Prison League and the Juvenile Court of Denver are examples to the world.

To return to the subject of the sketch with which I began; the Borstal System stands for our best preventive effort up to date. Borstal, briefly described, is a half-way house between prison and the reformatory school. In English law, sixteen is the age of "criminal majority"; that is to say, young prisoners above that age can no longer be made subject to reformatory treatment in the State schools provided for the purpose. To meet the case of the artful dodgers between the ages of sixteen and twenty-one, Borstal was created.

The scheme was begun in a small way at Bedford Prison in 1900, and in two years it was in the full tide of successful experiment. When the affair was well forward, a move was made to the more commodious prison at Borstal, near Chatham; and here I saw from eighty to ninety of the young Borstalians at work.

Labour at Borstal is not "tasked" as in the regular convict and local prisons, but in the long day of fourteen hours there are no idle moments: the lad over his book of an evening keeps his knitting-needles going.

There is half an hour's drill every morning and afternoon. Everybody goes to school on weekdays; the upper boys for an hour, the lower for two hours. I saw some lessons in progress and some very decent specimens of handwriting. There is a good deal of music, too; the choir-boys are at it pretty often, once or twice a week the whole crowd are mustered, and the prisoner who does not love to sing is suffering from softening of the brain. I found also—and here, indeed, was a wonder—a recreation-room. It is the first ever opened in any English prison.

I went through sundry shops and other workplaces. I saw youths employed in the open air at bricklaying, building, and gardening. I saw young carpenters, tinsmiths, and blacksmiths; and the old friend, Mr. Frederic Whyte, who accompanied me (his first visit to prison) exclaimed that never had he beheld more cheerful labour.

As compared with the ancient deadly and deadening routine life of English prisons—and I have looked at it in not a few of them, and studied it in Blue Books, reports, and narratives innumerable—many of the methods of Borstal are startling in their freshness. Elsewhere the prisoner—short-term or long-term man—begins at the very lowest step of the ladder; he is in the hard class of the "probationer"; and there, be his conduct what it may, he must serve his stated time. But this meanest and most painful class of all the young Borstalian need never enter. The start is made in the second or "ordinary"

stage. From this he can be degraded to the "penal" class ; but for such degradation he himself would be solely responsible, and the Governor assured me that his penal class was often quite empty.

"Very few of my lads," Mr. Western, the ideal first Governor of Borstal, said to me, "ever find themselves in the penal class, and I take over some of the most incorrigible young rogues in London. One lad, when he came to me, had been fifteen times in prison, and I have others who have had four, five, and six convictions. We have hooligans, thieves, and young burglars—the despair of the courts—yet it is not uncommon for a week to pass without my receiving a single report against any of them."

Most of the boys I saw at Borstal had risen to the blue. As they rise their privileges increase. Thus, they are housed as no convict ever is. The cell of a convict resembles a very clean scullery, bare of ornament. In the cell of the young prisoner in the first class at Borstal there is a bedstead, a looking-glass (no convict ever sees his features unless on the polished bottom of his tin), and a strip of carpet ; along with the volumes on his bookshelf are photographs of the folks he has left at home ; and if with these is found a picture-card presented by the Governor at Christmas, you may be sure that this has been a very good boy indeed. Authority is not above coaxing and wheedling the young chap.

Thus, there is at Borstal an excellent boy's library, but the best book in it is little valued in comparison with the volume that comes now and then from the shelves in the Governor's study. This book has not the prison stamp in it ; was not bound in the prison bindery !

They use at Borstal the "indeterminate sentence,"



in some measure an American device. It works in this way : the Bench fixes the maximum, but it is discretionary with the Governor, chaplain, and medical officer, acting as a committee, to reconsider the term. At the end of six months the probationer appears before the committee and his case is overhauled. The question is submitted : Would he be "likely to benefit by release before expiration of his sentence" ? The case is sifted thoroughly, for Borstal is jealous of its reputation, and considers cautiously the future of its chickens. As likely as not the chicken is sent back, to be brought up again by and by. But if this is a real game chick, the hope of being set free after his next exam. keeps his pecker up and acts like magic on his mark-sheet.

And when he *is* set free ?

"God speed you ! And may I never see you more !" is the best farewell that a Governor can take of his prisoner. Yes ; but who is going to look to this youngster, with a brave record behind him and new hopes risen in his heart, when he stands on the other side of the friendly door of prison ? There is no blinking the fact that a very large number of reconvicted criminals find themselves in prison a second and a third time for the main and ugly reason that we have not given them the chance to be anywhere else. The released Borstalian has, at any rate, one chance, and it is a fair one.

Space is wanting to praise the work of the voluntary Borstal Association (formed some years ago), which is rapidly becoming a central body that will make itself responsible for the care, on discharge, of Borstal's pattern boys.

One hopes devoutly that the new system will not crystallise, will not become stereotyped and mechanical

—the peril of all our prison schemes, and the fate of most of them. Rules, standing orders, and the literal and dull interpretation of them have reduced the administration of every convict and local prison in the kingdom to a frosty routine; meticulous, hair-splitting, cynical, and callous; crushing in its effects on almost all the better class of prisoners, and contemned or made light of by the hard old lags, who endure it philosophically, and pass from it unreformed, untouched. From this historic destiny of every plan that we have ever tried in prison—hulks, Botany Bay, old Newgate of Howard's day and Mrs. Fry's day, down to the manifold anomalies of our existing system of penal servitude—may some peculiar providence deliver Borstal!

Meanwhile it goes somewhat trippingly. The system has now been greatly extended. Until recently it was applied only to selected individuals whose sentence exceeded twelve months—"which experience has shown," say the Commissioners, "to be the minimum period where reformatory treatment for persons of this age can be usefully applied." At present, lads between sixteen and twenty-one, in whatever prison they may be lodged, have the new prescription tried on them. The Commissioners have utilised a part of the prison at Lincoln for the reception and treatment of cases from the north of England. They have extended the principle of the Borstal system "to *all* offenders committed to all prisons in England and Wales, irrespective of length of sentence, where the age is between sixteen and twenty-one. . . . Steps have been taken to concentrate the criminal youths of the Metropolis, under the longer sentences, at Wormwood Scrubs Prison, where it is expected there will be a daily average of

about 250 of these cases," and a class on the Borstal lines has been started at Dartmoor.

Time will show how far this concentration of effort will produce results proportionate to the outlay. Length of days, infinite toil, and a good deal of money will be needed.

In April, 1905, at Birmingham, was opened the first Children's Court. It is not as wonderful, not as fascinating an affair as "Jedge" Lindsey's in Denver, but will do very well for a beginning. While the business of the little pickles is being dealt with no criminal grown-ups may be present. The children have their own separate entrance, and they and their parents or guardians are made to wait their turns in a private room. No child is allowed in the court except during the hearing of his own case. Under the Youthful Offenders Act, 1901, the parents or guardians of the "criminal" are bidden to attend, and they may be punished when it is shown that the offence is due to neglect on their part. The example of Birmingham should be widely followed.

A paternal administration of the streets would save the Children's Courts and some others an immense amount of trouble. All street callings are bad for children, and that of the paper-seller is possibly the worst. Prisons in the larger towns are always receiving little chaps who got into trouble first through hawking papers on the kerb. I have seen them picking oakum and tailoring at Wormwood Scrubs, at Wandsworth, and elsewhere. The kerb is a recruiting-ground for the army of the gaol. The paper boy knows all about betting, "form," and the state of the odds. He plunges a bit on his own. He is equal to making a book, or setting up in

business as a tipster ; and when he has got to this point he has started threading his way down the alley that is blind. He generally becomes a waster of the racecourse, and settles down as a racecourse thief. To anyone who believes that lads should be allowed to trade in the streets under the age of sixteen I would recommend a day in the police courts, and after that a tour through prison.

## CHAPTER VII

### AN AMERICAN EXAMPLE: THE "LITTLE MOTHER" OF AMERICAN PRISONS

QUITE a new thing is being done in the State Prisons of America. It is a crusade, the practical results of which seem rather to upset the conventional notion that the man who has reached a certain stage in crime is past reform. A woman of genius, with a burning belief in her mission, enters prison after prison, enrolls the convicts—her "boys," she calls them—in her Volunteer Prison League, literally makes new men of them and creates new lives for them. She has enrolled men serving life sentences, who, on this side of the grave, have little hope of release. The devoted woman who has done this is Maud Ballington Booth, known to thirty or forty thousand convicts and ex-convicts from end to end of America as the Little Mother.

It should be understood at the outset that this is a downright practical work. Mrs. Booth does not go into prison to weep over men who have been guilty of great crimes. She says to them in effect (I quote the words of one of her own "boys"): "I don't come here to prevent you from paying the just penalty of your crimes; take your medicine like men. You know what is right, do it *now*. When you have paid the penalty, I will help you. I will nurse you back to health, I will get you work; above all,

I will trust you, and it depends upon you whether I keep on doing so or not. Mind, I will help you over rough places, but I won't carry you."

That's the talk that prison understands. In truth, Maud Booth has shaken prison with a ringing message. Testimony comes on every hand. Wardens (as the governors of prisons are styled in America) who at first were wholly sceptical have long been speaking and penning her praises. Warden Thayer, of Dannemora Prison, addressing a public meeting in New York, and touching on the first enrolment of men in his prisons, said :—

"When I saw those men, one hundred and seven of them, stand up, I began to feel sorry for Mrs. Booth. Here were the very hardest men I had to deal with in the prison ; men constantly reported for punishment. I took a list of their names for future reference. I kept that list in my desk, and when the year had passed I brought it out with a view of paralysing that little woman. Would you credit it ? I learned to my own surprise and satisfaction, on comparing it with the punishment book, that out of those who stood up in the chapel that Sunday morning only three had required punishment during the entire year. I saw now what I had not realised before, namely, that as an aid to discipline in the prison no plans had ever equalled the influence of this work."

Says Warden Darby, of Ohio Penitentiary : "The good derived has not been limited to the League members alone. Others have been induced to strive for better, higher, and nobler lives." Warden Johnson, of Sing Sing, declares that his "faith in man has been enhanced by certain discharged prisoners



who are leading reputable and prosperous lives." "I am sure," writes Warden McClaughry, of Fort Leavenworth Penitentiary, "that you are receiving to-day the gratitude of every prisoner and ex-prisoner who has ever known you ; also of every prison officer whose burdens have been lightened and whose way has been made more clear by your kindly counsel and helpful enthusiasm." The "boys" themselves tell just the same tale. "The verdict of the prisoners upon the work of the League," says a six-year man, "is unanimous that it is the only real and practical scheme of help that has ever been extended to them. There is no varying opinion about its effectiveness. They recognise its value. It has opened the way for hundreds of wretched men who turned from the contemplation of their future with despair, but who now regard it with hope."

Now for a moment, before describing the work, let us turn to some more or less general principles.

There are only two practical ways of helping the prisoner. In the first place, while he is still in the cell you must work upon his better feelings, you must put heart and hope into him. In the second, you must take him in hand when he comes out of prison and decently restore him to the world. If the getting into prison is a terrible business, so also, in very many cases, is the getting out. Then, indeed, it is that, in very many cases, the real punishment begins.

But, as I have said, the work must start in the cell ; and now I am thinking more particularly, not of the convict who has friends of the good sort to receive him or the money to take him abroad, but of the one who expects, and possibly intends, to hie on release to the haunts where the old gang and the

old life await him. Let him set his face in that direction and it is up with him. The "peeler" will have him again. Persuade this man, however, before the day of his discharge, that the game is not worth the candle; convince his intellect that you can and will show him a better; and you may succeed in turning him inside out. But when you have made him believe that there are careers which pay better than the crooked one, you ought not to let go of him till you have set him on his feet again. A few men return to crime quite prepared to take all risks. They know very well that they sew a double thread, but while the nerve lasts there is a genial excitement in burglary and jobs on the big scale, and the old hand who has had a good run for his money pays his scot in prison cheerfully enough. He is generally the best of prisoners—and the reformers' despair. Not by any means is every gaol-bird of this kidney, though. Half the people on the crook would be on the straight if only they knew how. We do so little for them!

These, then, are the two, and the only two ways. Seek the prisoner in his cell. Cheer and exhort, counsel, persuade, strive. Achieve something before the man is out and can set his feet again in the mire and the snare. Then, on his release, receive and shelter him until you have found or made for him a new opening. How may this be done?

I know of but one answer: the work of Mrs. Ballington Booth.

In the loneliness of the cell, what voice of appeal can ever equal the woman's? It echoes from the bare walls when the ministering angel has gone; if there are chords to be reached they will vibrate to this as to nothing else in the world. And if the

woman not only quickens the dead heart with her voice, but carries yet another appeal in the fairness of her face? I can make no picture comparable with the living original, whom I met in the garden of a Kentish vicarage. The comely head is admirably poised on a chiselled neck and perfect shoulders; and as fine as the poise of the head is the carriage of the rather small, flexile figure, which has every gentle pride of curve and line. Add to these graces an infinite play of feature, and a manner that is never in the least aware of itself. This is the one woman in America who can fill hall or church to overflowing, and hold an audience bewitched for two hours. Is it wonderful that when she went into prison she led captivity captive, and made men of thirty or forty thousand criminals and wastrels?

During the time that she and her husband were the leaders of the Salvation Army in America, Mrs. Booth was asked by some of the prisoners in San Quentin, California, to visit and address them. She went at once, and beheld prison for the first time.

“Never shall I forget,” she said, “the sea of upturned faces, many of them so plainly bearing the marring imprint of sorrow and sin—despair and misery—yet behind the scars and shadows there was such an eager longing—such a hungry appeal for a sight of hope’s bright star, that one could but feel an intense inspiration while delivering the message. Never before had I seen the stripes, never heard the clang behind me of the iron gates, nor had I realised the hopelessness that enshrouds the prisoner. . . . I did not attempt to preach. As far as possible in that brief hour I tried to carry them away from prison. . . . The response I read

in those upturned faces—the grateful words that reached me afterwards through the mail, and the constant memory of that scene as I witnessed it, lasted with me, deepening into a determination to make their cause mine when the opportunity should offer.”

Sooner than had been expected the opportunity came. For reasons which I need not here discuss—the matter is a strictly private one—Mr. and Mrs. Booth severed their connection with the Salvation Army. “Our movement,” says Mrs. Booth, “has nothing to do with the Salvation Army, is in no way connected with it, and is absolutely dissimilar in method and government.” They founded between them, husband and wife, the association of the Volunteers of America, and out of this arose the Volunteer Prison League. The Warden of Sing Sing (whose testimony I have cited) asked Mrs. Booth to speak there. It was the opening of the door that she had prayed for since her visit to San Quentin. “On the 24th of May, 1896, the initial meeting was held, and from that place and hour it has grown and widened, until now the movement has attained national proportions.” From Sing Sing the call came to prison after prison. Sometimes it was “the boys” who sent a plea through the chaplain; sometimes it was a warden who had heard what strange new things were being done in other prisons. Auburn, Clinton, Charlestown, Trenton, Folsom, Joliet, Columbus, Fort Leavenworth, Anamosa, Iowa, Baltimore: in these prisons the League has been established, and in the chapel hangs to-day the League’s white standard, with the star of hope shining in the centre.

Let us seek to know what is the spirit of this

crusade which has stirred so profoundly and affected so powerfully the whole under-world of America. "From the very first," says Mrs. Booth, "I realised that to make the work effectual there must be the establishment of personal friendship"—the beautiful title of Little Mother was early bestowed on her by some grateful and inspired "boy"—"and that it was only as we recognised and helped the individual that we could by degrees affect the whole population." Her idea was to meet the prisoners on the level, to get to know them man by man, to win their confidence, to put them gradually on their mettle, and then, in the end, to engage them to stand up in prison with her badge upon their breasts. There was to be no coddling, no going behind the prison rules; with the definite promise of help on release the men were to be compelled to work out their own salvation. A beginning was made with the chapel services. The first appearances of the beautiful little nervous woman, half ashamed, she says, of her liberty in the seats of bondage—are still remembered; the "sense sublime" of her talk, the sudden stir along the hearts of her listeners. She said she would correspond with those who had no friends. Letters poured in upon her. "The many letters which reached me soon gave us an insight into the thoughts and feelings of the men, and we were then able to become familiar with the names and histories of many of them." After the letters came interviews in the cells; and as men began to take the decisive step, it became evident that organisation would be needed to bind them together. The V.P.L., or Volunteer Prison League, was formed; and, to test him to the utmost, every man who joined it must show his colours boldly in the prison: a small white button with a blue star

in the middle, and the motto of the League : " Look up and Hope." The prisoners banded in this League stood together for right living and good discipline. Each man was given a certificate of membership :—

" This is to certify that —— —— is a member of the Volunteer Prison League, he having faithfully promised with God's help to conform to the following conditions of membership :—

First—To pray every morning and night.

Second—To read the Day Book faithfully.

Third—To refrain from the use of bad language.

Fourth—To be faithful in the observance of prison rules and discipline, so as to become an example of good conduct.

Fifth—To seek earnestly to cheer and encourage others in well-doing and right living, trying, where it is possible, to make new members of the League."

This document hangs in the prison cell, and its owner dons forthwith the badge of the V.P.L. He is now, of course, a marked man. Officers and fellow-prisoners alike watch him closely, and, as may be imagined, it is in this hour that his trial begins. This trial, however, Mrs. Booth regards as of paramount importance. The man must go through the fire . . . alone.

" The thought that has made this League a strong foundation for the work and that has proved the most rousing inspiration to the men, is that the effort is not ours but theirs. No philanthropist, preacher or teacher in the world can reform these men. . . . It rests with the men themselves."



The League obliges them to realise this very vividly ; the responsibility is rolled back upon their own shoulders ; they are made beholden to their own consciences. This would seem to be the root of the matter ; this is that spirit we have been seeking. The prisoner sets to work to rebuild his character ; and what that effort costs within the walls of prison may be but faintly guessed.

When the League has grown to some size in a prison it becomes a " post," and the white standard is presented. The loyalty of the " boys " to the flag, Mrs. Booth says, is quite wonderful ; and there is a kind of rivalry between prison and prison, each " post " wishing to keep the best record.

I have said that even life-men have been drawn into the League. Here is a letter from a man who lies at this moment in the cell that will probably hold him until death : a voice from a living tomb :—

" Dear Little Mother,—Nobody knows better than I do myself what the League has done for me and the men here. I have been in prison over twenty years, and know what I am talking about. Without it prison would be much like what it was before. I hope that with all the disappointments you are bound to meet with, you will continue to believe that there are hundreds of men in our great prisons who are in earnest.—Most respectfully yours, No. 19,595."

What a breaking of the dawn on that dark horizon !

Some secret efficacy is in a League which makes " earnest " men of lifers.

The supreme test is the power of the men to stand. In a League like this mere profession counts for

nothing, since the members are left to achieve their own salvation. What tells is the daily life in prison of those who have put on the badge. On this point we have the adequate testimony of a warder who at first was as sceptical as the rest.

“I want to confess to you,” he said to Mrs. Booth, “that I was one who took no stock in this movement at first. I used to laugh at the men making a profession of living any better, but I confess I have been forced to change my views. You do not know the change it has made in this prison, and the miracles that have been wrought in many of these men. You can see them in the meetings and can judge of them by their letters, but we live with them day after day and know far more than you can. I never believed anything could take hold of the whole prison population, the educated, the middle class, and the tougher element, affecting them as this work has done.”

The Leaguer who was once an object of scorn now wears his button with pride. The men who do not wear it show some respect for those who do; the power of the League is felt everywhere in prison. “It has become bad form to swear,” says an ex-prisoner, “and clean conversation is supplanting the ribald talk that prevailed among the men before the League’s influence manifested itself.” Officers and prisoners are on a better footing with one another; the men more biddable, the warders less arrogant. Discipline itself has come under the new spirit and shows a milder temper.

One might think that these “boys” in their tens of thousands were care enough for a Little Mother.

It is not so. Wives, mothers, sisters, children have their claims upon her. Do any among us ever think what happens, or is likely to happen to the family when the breadwinner is "put away" for a term of years? Ask Maud Ballington Booth. Often and often the man in prison is tortured not so much by what has befallen himself as by the knowledge that wife and children are suffering in the ruined home. Mrs. Booth had been presenting the cause of her "boys" in a drawing-room in New York, and at the close of the meeting a lady came forward and said to her, "I never for one moment realised that these men had wives and mothers and little children." There are thousands who have never realised this, the saddest side, perhaps, of the question. Mrs. Booth gets countless appeals from mothers not in America only, but in Germany, France, Italy: "Watch over my boy, give me tidings of him." And the "boy" in the prison stripes remembers mother and wife, and pleads with the Little Mother for them. A young wife with a baby wrote to the husband in prison that she could hold out no longer, she was at the end of everything, she could not let the child starve. "For God's sake," wrote the husband to Mrs. Booth, "go and find her and save her from what would be worse than death." And they are found and saved, wives and children, and the mothers are comforted. Mrs. Booth is of that English family of Charlesworths, one of whose members has bequeathed to us a book which childhood never wearies of: I mean "Ministering Children." The note of the story is altruistic; do something for somebody because you cannot help doing it. The idea is as old as the world—and always new in practice.

"After Prison—What?" Many men come out

shattered and nervous, utterly unfit for a while to take their place in the world. For them the doors of Hope Hall stand open, with "Welcome" on the doorstep. Mrs. Booth has several Hope Halls, and to the ex-convict each of these is truly the country of home. "Don't speak of the past," "Don't think of the past," are among the mottoes on the walls. Every room is bright, cosy, and dainty; there are beautiful grounds; and the evening brings books, music, games, and talk. Here the guests of the Little Mother stay, bound only by the rules of courtesy and chivalry, until they are able to go back into life and work has been found for them. And in obtaining work for them no deception is used. When Mrs. Booth has found a willing employer she tells him the "boy's" past; he goes, therefore, without the dread of being discovered and turned off.

Hope Hall and what it leads to are the top and crown of the work. This work, moreover, as the "boys" have long known, is voluntary. Mrs. Booth and her husband, independently placed, give all and take nothing. The Little Mother herself may be said to spend one half of her life in prison and the other on the railway, travelling up and down the whole continent to give lectures and raise money for her high crusade. In this and for this she lives. And she says, with a smile that irradiates the prison-house: "It is well worth while." It is. About 80 per cent of the "boys" are a credit to her. But what a lesson to us!

P.S.—Just as this chapter was going to press I received from Mrs. Booth, on her return from a long trip in the West, a letter which ends thus: "Our

work is progressing well, and I am opening up in new prisons, but perhaps the most cheering phase of it is the meeting with those who have been out of prison some years and are still doing well. I hardly ever enter a city, however distant, without coming across some of my 'boys.' "

## CHAPTER VIII

### THE BOOK IN THE CELL

FROM the hour that he passes into the cell a certain solace of books is granted to the prisoner. The deal shelf over his head contains a Bible, hymn-book, and Prayer Book, and some simple primer, or "reader," which may be conned for learning or amusement. With no greater store a shipwrecked sailor would be wealthy; thousands of English homes have less; and many generations of English prisoners would have found some sweetness in captivity had they possessed the first only of the books on that deal shelf.

How long does it take to read the Bible through? There are, I fancy, scores—hundreds, perchance—of persons at this moment undergoing penal servitude who could answer the question out of hand. To a certain number of the prison population no other book in the world can have given so large a measure of consolation, and all who can read must have had it in their hands, and taken something from it, since this is almost the sole book upon which, during the earliest stage of his confinement, the convict can bestow his leisure. It need be no impulse of devotion, no mood of penitence or remorse, that sends him to his Bible. The book may do no more than modify the tedium of his resting hours; but who knows? Many educated prisoners, making no special profession of religion, have described the Bible as the most



inspiring companion of solitary confinement, and have testified to the delight with which they read and reread it under those terrible conditions.

For the prison library the chaplain is chiefly responsible. With the business of the library is associated that of the educational department, over which also the chaplain presides, assisted by a qualified schoolmaster, who has under him warder-schoolmasters. It is during the first stage of penal servitude that the most particular attention is paid to the mental, moral, and literary education of the convict. His mental and literary education especially have been subjects of consideration by successive Governments of the past half-century ; difficult subjects enough, the reader may be assured. Mere literary education, experience has shown, is not the panacea for crime which the reformers of the early nineteenth century—inspired in great part by the philosophic Beccaria—fondly believed it to be ; and it is obvious that the fruits of the best system which could be devised must be extremely slight in the cases of undeveloped adult prisoners confined for short periods, and not much more satisfactory in the cases of professional and habitual criminals, whose morals are apt to grow blunter as their wits grow sharper.

Still, in the hope of achieving something, this branch of training is not neglected, and in all modern English prisons a well-developed system of elementary education is at work ; while letters, in a simple form, do not altogether languish.

It is curious, if painful, to see prisoners of forty years old and upwards laboriously engaged upon copybooks and primers. Prisoners above the age of forty do not, however, receive instruction except in

special cases. The quite illiterate prisoner of middle age is nowadays a rare bird. "Prisoners found to have no capacity for learning, or who are idle, are excluded from instruction, the latter, however, only temporarily ; and prisoners previously convicted may, if found advisable, be excluded." Prisoners in Class III, if they need it, receive instruction in writing and arithmetic, and are allowed a slate and pencil in their cells in addition to books. Possession of a slate is said to be greatly prized, and very curious are some of the writings committed to it by the prisoners in their leisure.

The limits of instruction in the prison are : *reading*, as far as Standard III, inclusive ; *writing*, as far as transcribing a portion of the book read and reading what has been transcribed ; *arithmetic*, as far as casting simple money accounts and mental calculation of small money sums.

Certain special encouragements and inducements are held out to prisoners to take the utmost advantage of these teachings. Thus, except in the cases of those who are too old or too feeble in mind to learn, no prisoner is allowed a library book in his cell until he can read Standard II with fluency ; and, as a further stimulus, those prisoners in the second and third classes who are entitled by the rules to write an occasional letter home are, after a period of instruction, required to write for themselves, and are forbidden, except by very special favour, to have letters written for them. Prisoners admitted to the first class on reception into prison can very rarely have more than two letters written for them by the schoolmaster or his assistants. No convict can ever be promoted to the first class until he is able both to read and to write, and, slight as are the privileges

accruing on promotion from one class to another, the dreadful monotony of prison life makes them objects of the liveliest competition.

One of my visits to Wormwood Scrubs was devoted entirely to the library; and its quality, range, and diversity surprised me.

There is a fair, but no more than a fair, leaven of devotional works. For the foreign element of the convict population it has not, of course, been possible to cater largely, but the collection of Bibles embraces all the chief languages of Europe.

In its general character, the library—which contains at least two thousand volumes—much resembles that which one would expect to find in a high-class provincial literary institute. It is a far better collection, as regards both numbers and quality, than the average citizen of the middle classes possesses, and as new books are constantly added to the store it will in time be an exceedingly fine one. The principle on which the works are chosen is necessarily influenced by considerations as to the special circumstances of the readers, but the chaplain uses a very liberal discretion, and it seemed to me that every reasonable taste was provided for.

In the department of fiction I found Scott, Thackeray, and George Eliot—comely volumes in the bindings in which you or I might buy them—and a host of lesser lights, from Ballantyne to Jane Worboise. The adventure story, I noticed, was in good quantities, as also the literature of travel. Light and popular science was there in abundance, and very favourite works, Mr. Baldwin informed me, were the “Popular Educator” and the “Technical Educator.” Gibbon, Milman, Macaulay, Kinglake, and Green were amongst the historians;

Emerson and John Stuart Mill amongst the philosophers. Biography ranged from the "Life of Napoleon" to the works of Smiles. Theology had as prominent a representative as Newman in his early sermons. Poetry began with Spenser and ended I know not with whom. Natural history was not neglected, and in the field of *belles lettres* the literary essay had several distinguished exponents, from Addison onwards. There was a volume on the philosophy of Shakespeare. Periodical literature—always in great demand among those prisoners who like a big miscellaneous volume to nibble at—included "Chambers's Journal" and the "Leisure Hour."

The educational books pure and simple, primers, readers, and so forth, were many, and I questioned the chaplain about them. He told me that a certain kind of educational book is continuously in demand amongst his convicts, not a few of whom find their best recreation in the pursuit of some form of intellectual study. The learning of shorthand, for instance, is a rather favourite pastime; and those prisoners who devote themselves to it seldom give up until they have attained a degree of proficiency in the reporter's art. Others take a fancy for languages, and one prisoner of some social celebrity was named to me who had acquired in prison a more or less grammatical acquaintance with four European tongues, not one of which had he any knowledge of at the date of his sentence. In the nine months of his sojourn at Wormwood Scrubs he had learned enough to translate and construe sentences in French, German, Spanish, and Italian. Having said this, I need not add that the reference library is well supplied with dictionaries. One of these, fetched

down for me from its shelf, was a "Welsh-English and English-Welsh Dictionary." I had never seen a "Welsh-English and English-Welsh Dictionary" before, and am curious to know in how many public and private libraries in the kingdom a copy is to be found.

One peculiar mark is borne by every volume in this library, which stamps it as a "book for prisoners." This mark, a black circle with the broad arrow in the centre, is impressed on every available inch of space on every page of every book. Margins and the blank half-leaves between chapters carry this ugly sign. The reason is, that no scrap of unprinted paper may be available to prisoners for the transmission of secret messages. The book, which a prisoner is allowed to keep for a week in his cell, he may not, during that week, exchange for the book of any fellow-prisoner, but such exchanges are occasionally effected in chapel, on the exercise ground, or elsewhere; and a marginal allowance of infinitesimal extent on any page suffices for the writing of a letter or message in cypher.

To the question which this piece of information prompted the chaplain replied, that considering the character of so large a proportion of the prisoners, the books were very well treated. No prisoner cares to be convicted of spoiling his book, for he is then at once deprived for a time of the privileges of the library, and this is a sore penalty. For the library is the first and last boon of the convict. The book that it lends him is his one actual and only link with the world that has divorced and cast him off. With his Bible, or his story, or his page of easy science, or his chapter of travel or adventure, he carries himself back into the life which his sentence

lost him ; or he creates for himself a new life which banishes every day, for an hour of romantic and incredible delight, the weary routine of the barrow, the pickaxe, or the loom.

For an hour I say ; but the time limit of the prisoner for reading is much more generous than this. Taking his meals in his cell, he may read while he eats, as many or most of the prisoners do. Dinner itself would allow him the best part of an hour ; Sunday might be given almost wholly to his book. On a weekday labour in the prison ceases at about half-past five in the evening, and lights are not turned down until eight. How many of us in the free world, including those to whom books are a profession, can abstract from every evening of the week a fair and secluded two hours and a half for the pleasure or business of reading ?

## II

A good book in the cell, then, is a high concern to its inmate. Intelligent prisoners in the old French dungeons of State, for whom no occupation was ever provided, have left poignant stories of the pains of enforced idleness in those places ; and so weary of his own society did Mirabeau grow in the solitudes of Vincennes that he set himself deliberately to the composition of indecent fables. The lot of our own State captives, up to the end of the eighteenth century, must have been as dour, and not a few attempts at prison-breaking were the fruit of sheer boredom.

In our modern gaols of both kinds the need of a fair and regular service of books has long been recognised. Under certain strict conditions a prisoner



is allowed to receive books from friends outside, and Osear Wilde in Reading Gaol availed himself of this privilege. I think, however, that in all the larger prisons the library is now handsomely provisioned. It is praised by Jabez Balfour (who was "librarian orderly" at Parkhurst) as "the very best agency for good which is to be found in a convict prison." Even during the period of his own detention of eleven years, he tells us, the quality of the prison library underwent a change: "The mawkish, goody-goody stuff . . . has happily been used up and has not been replaced." He adds:—

"Every moral influence and power does, in fact, manifest itself most effectually in the material conditions and aspects of individual life. This is notably the case in convict prisons. It is literally impossible to overrate the good influence resulting from the circulation of good books among prisoners. It is often the only really successful influence."

In the spring of last year another departmental committee reported on "the supply of books to the prisoners in H.M. Prisons and to the inmates of H.M. Borstal institutions." According to this document, the books supplied to prisoners are at present divided for administrative purposes into five classes, named respectively, devotional books, school books, books of moral instruction, books of secular instruction, and "library books." The devotional books are the Bible, the Prayer Book (in the case of Roman Catholics "The Garden of the Soul"), and the Hymn-book. These, in the official phrase, form part of the "furniture" of every prisoner's cell. Then come the school books. These are English History, Reading Books (the National Society's), Language

Lessons, Arithmetic, and Collins' Clear Type Pronouncing Dictionary. As for books of moral instruction, it would seem that a prisoner can practically be accommodated in accordance with his "religious persuasion." Is he an Anglican? He can have "The Narrow Way" and "The Traveller's Guide." Is he a Romanist? He can make choice of "Think Well On't," the Roman Catholic Penny Catechism, and the Poor Man's Catechism. Is he a Nonconformist? Here are the "Pilgrim's Progress" (itself the creation of a prisoner) and the Methodist Hymn-book. Jewish prisoners may pick works of moral instruction upon other lines; and to all prisoners alike is offered a volume, the "Healthy Home and How to Keep it."

The rules have been expanded since I looked through the Wormwood Scrubs collection, for it seems that at the present day almost any book that can be brought within the technical description of "educational" is allowed to any prisoner (not under punishment) at any stage of his sentence. There are many works that come under this definition, ranging from English and foreign grammars to text-books of shorthand, and manuals of shoemaking, carpentry, weaving, blacksmithing, etc. Books in this class, moreover, may be changed as often as a new one is wanted. This, at least, is as the regulations run; but, as the service of the library is not numerous in any prison, I can scarcely suppose (as the committee seem anxious to persuade us) that the orderlies of this department are as ready to the call of prisoners as the assistants are to readers in the British Museum. Naturally, they could not be; and it is probable that the prisoner gets his book—his exceptional book, I mean—when it is convenient to the staff

to wait on him. No prisoner commands anything, and it is never to the interest of a prisoner to give trouble to anybody.

As to the phrase "library books," this takes in everything not comprehended in the four classes of works connected with devotion, school, morals, and secular instruction. The report says :—

"Though the average level of education of the prison population is below the general average of the nation, yet actual illiterates are now few, and nearly every grade and kind of education to be found in the outside world has its representatives to-day in prison. The ordinary demand which has to be met by the library of a large prison is about as varied as that which is catered for by the circulating library of a provincial town, and at one or two prisons would compare favourably with it in point of quality. Prisoners' main desire is naturally for relaxation and entertainment. After a fairly hard day's work this is not surprising, either in prison or out of it. What is somewhat surprising is the extent to which the works of the best English novelists are either spontaneously asked for by prisoners, or accepted and read with pleasure when recommended by the chaplain. There is always a considerable number of prisoners who read Scott, Dickens, and other standard writers, and even prefer them to other books. A distinction has to be drawn here between the inmates of convict and local prisons. What we may call the 'educated demand' is chiefly to be found among convicts. Among local prisoners it is the exception to find persons of any substantial degree of education. In the smaller local prisons they are almost unknown.

In the convict prisons, on the other hand, such persons are by no means uncommon. At Dartmoor, for example, beside Dumas, Rider Haggard, and Mrs. Henry Wood, we found Dickens, Thackeray, Scott, and Shakespeare in regular demand; while Pope, Southey, and Chaucer have also their adherents."

The traditional vanity of the criminal finds its expression even in the requests he makes to the prison librarian. The convict or local prisoner who would read by preference something with a taste of blood can be induced to turn his attention to the novelist in vogue; and in Dartmoor there was a sudden run on Shakespeare by prisoners who never glanced at a page of him, but had privately received the "office" that it was the correct thing to have Shakespeare on the shelf.

"There is always a certain number of highly educated prisoners for whom even the best of works of fiction are not sufficient. Such men are mostly to be found among convicts, the average quality of whose reading is considerably superior to that of the local prisoner; and especially among the convicts placed in what is known as the "star" class, i.e. persons of respectable antecedents. For these even Scott, Dickens, and Thackeray require to be supplemented by historical or philosophical authors of the first rank. Among the convicts at Maidstone there are men who will seldom read novels, but ask for such authors as Froude and Freeman, Macaulay, Burke, and Gibbon, Ruskin, Carlyle, Spencer, and Mill. They are usually professional men convicted of serious frauds."

A psychological study of the reading of prisoners, if we could get it, would be curious and valuable. Concerning certain prisoners, for instance, we should know much more, if, knowing what books they call for, we also knew precisely why they called for them. The Jewish penitents were to be envied who coaxed their Rabbi into placing "Monte Cristo" on the list of "works of devotion."

## PART II

### PREVENTIVE

#### CHAPTER IX

##### BERTILLONAGE AND THE FINGER-PRINT

WE have in recent years modified and more or less transformed our old devices for identifying criminals. Mistakes, sometimes absurd and sometimes serious, are still, of course, recorded : the calamity of Adolf Beck, positively sworn to by I know not how many witnesses, was terrible. Still, we own a science now where, twenty years ago, we rested in empiricism.

To get behind the *alias*, to fix the true personality : this is the aim of the police. A case or two, culled from the archives, may show how hard it often was to recognise a prisoner by the loose methods heretofore employed.

A man giving the name of Hodgson was put before the Liverpool magistrates on a charge of "frequenting." His clothes showed that he had recently been discharged from a convict prison. The list of discharged convicts was searched, and the police identified the prisoner with one Thomas Franklin, a licence-holder, or ticket-of-leave man. He was convicted and committed to Liverpool Prison, but when the question of revoking his licence came up he continued to protest that he was not Franklin. The



Governor of the prison suggested a further search, and "Hodgson," or "Franklin," was next identified with another ticket-holder, by name Peter Connor; but he had gained nothing by the correction of the mistake, for Connor was an old and dangerous hand whose record was well known to the police.

A woman calling herself Eliza Whitchurch was convicted at Gloucester of burglary. The county police did not know her, and a description was circulated through the usual channels. The Ilminster police thought her an ex-prisoner, convicted of stealing at Southampton under the name of Elizabeth Smith, and of burglary at Poole, nine months later, under the name of Elizabeth Clode. But from other evidence, variously derived, it was surmised she might be a certain well-known Eliza Rolfe, against whom was a tale of eight previous convictions. The photographs and descriptions of the two women agreed; the prisoner at Gloucester was credited with Rolfe's achievements; and the judge passed a sentence of seven years' penal servitude. In prison, the woman admitted the convictions in the names of "Smith" and "Clode," but declared positively that she knew nothing of Rolfe. A more thorough investigation established the fact that Eliza Rolfe and the woman convicted at Gloucester were different personalities. Justice was done, at the judge's request, and the sentence was reduced from seven years to six months.

The whole subject of identification was first exhaustively inquired into by the committee appointed by Mr. Asquith in 1893. Two new systems—new, at least, so far as our prison service was concerned—were then submitted to a thorough test. The first was the one associated with the name of its sole

inventor, M. Alphonse Bertillon, of the Paris Prefecture of Police. M. Bertillon's anthropometrical system has often been described, and I do not propose to deal with it at length. I may nevertheless praise it once again as the first great scientific device whereby it became possible definitely to fix the human personality.

Complicated as at first it looks, the Bertillon plan is simple in the working. It begins with a series of fine measurements—measurements depending on a knowledge of the length and breadth of certain bony parts of the frame, which, manhood attained, seldom increase, seldom diminish. For practical purposes they are invariable in adults. These measurements are never found to coincide in the cases of any two individuals. A's head at twenty measures what it will measure at fifty. It is no more, no less, with B's head. A's head and B's head may show no more than a fraction's difference; but B's measurements of finger, foot, forearm, and the rest will never so completely coincide with A's as to allow (measurements precisely taken) of a false identification between the two.

Bertillon takes eleven measurements in all:—

Height,  
Span of arms,  
Height of trunk or bust (sitting height),  
Length of head,  
Width of head,  
Length of right ear,  
Width of right ear,  
Length of left foot,  
Length of left middle finger,  
Length of left little finger, and  
Length of left forearm.

In addition to these measurements, M. Bertillon takes particular note of the colour of the eye, and has framed a special category giving seven descriptions of eyes, based on the intensity of the pigmentation of the iris. These are the principal measurements and indications upon which the anthropometric system is founded.

The eleven measurements are not, however, of equal value. Five, of greater importance than the rest, form the basis of the classification: the length and width of the head, the length of the left middle finger, the length of the left foot, and the length of the left forearm. These are selected as the most constant in each individual, the most varied in different persons, the least correlated to one another, and the easiest to take with accuracy.

The measurements are noted on a card of the following description :—

Head, length " width Left middle finger Left forearm Left foot	Name No. Date of Birth Place of " Particulars of Convictions	Finger-Print Formula _____
Height Eyes Hair Complexion Distinctive marks I. II. III. IV. V. VI.		(Photograph)

The obverse of this card would contain the prisoner's portrait; and in a short time the collection would, of course, be a very large one. How to classify the

cards ? Let us see with what facility M. Bertillon arranges and manipulates a packet of 100,000.

The hundred thousand cards are first divided in accordance with sex ; twenty thousand portraits of women are cast out, and twenty thousand representing children, who are in a division by themselves. The remaining group of sixty thousand is next divided into three classes of twenty thousand each, for prisoners of tall, short, or medium stature.

Then, taking no further account of height, M. Bertillon goes on to split up each of these primary divisions into three classes ; and he has three packets of some six thousand photographs apiece, for the long heads, short heads, and medium heads. Measurement of the heads for width enables the three classes of six thousand to be subdivided into three other classes, and he has three packets of two thousand each, containing respectively the narrow-headed, medium, and wide-headed prisoners. By the measurements of the middle finger these three packets are reduced to a series of six hundred ; these in their turn may be reduced to a series of two hundred by the division according to the length of foot ; the length of arms reduces these again to about sixty-three ; and the division according to the seven classes of eyes gives a final result of nine.

Thus easily has M. Bertillon divided for us his hundred thousand photographs into groups or packets of nine or ten apiece !

Let us now observe the system in the working. A man, we will suppose, has just been arrested in the Department of the Seine and brought for measurement to the Bertillon bureau. He gives the name of Joseph Prévile, and says he has never before been

measured. The police, for their part, have reason to believe that Joseph is lying low.

Now there are two classifications in the Bertillon system—the alphabetical and the anthropometrical. The alphabetical collection is searched, but no Joseph Préville lurks there. This, then, is either his first arrest, as he insists, or he is bluffing the bureau. Well, the anthropometrical classification is as handy as the other, and the next step is to take the measurements of Joseph Préville.

The measurer finds that his subject has a head of medium length, so the long-headed and the short-headed photographs are cast out. The photographs of criminals with heads of medium length are themselves divided into three classes, according to breadth. Joseph's head is wide; the classes of narrow and medium size are rejected, and the number of photographs is getting smaller and smaller. Joseph's middle finger is measured, next his left forearm, and his left foot.

Few photographs remain in the cabinet; the fate of Joseph Préville begins to tremble in the balance. Here, now, is the very last packet, which contains but seven or eight portraits.

Whose photograph is this? If not Joseph's it is the portrait of his double: the features are identical, and the measurements tally throughout, but the name is another's. Can Joseph have forgotten his proper name? The photograph in the clerk's hand represents a notorious offender whom the police have long sought for. A little conversation follows:

“ You still say that you are Joseph Préville ? ”

“ Yes.”

“ Born at Toulon ? ”

“ Yes.”

"Quite certain you are not Jean François Clairon, born at Calais, twice condemned for housebreaking and once for arson?"

"Quite certain."

"H'm! Open your shirt. I think you have the scar of a burn an inch and a quarter in length on your left shoulder."

Nemesis! The scar is there indeed, and "Joseph Préville" resumes his proper identity as Jean François Clairon. Compliments to M. Bertillon!<sup>1</sup>

## II

Less widely known at the date of the inquiry was the second of the two processes examined by the Departmental Committee. This was the "Finger-Print System" of the late Francis Galton, suggested in the first instance and partially applied by Sir William Herschel.

If the reader open his hand, he will see that the inner part is covered in every direction with lines long and short, broken and more or less straight, running hither and thither, and some of them grouped into very complex patterns. The conspicuous creases caused by the folding of the skin may be plainly observed in the hand of a child just born. No one has been able to say definitely how they were formed or what office they serve; science has discovered no real use for them, and they are of interest chiefly to the student of palmistry.

Now, however, note the delicate lines on the fingers. So struck was Bewick by them that he "made engravings on wood of a couple of his fingers, which

<sup>1</sup> A case very like "Joseph Préville's" was traced some years ago by M. Bertillon.



he used as designs for his illustrated works." The same lineations were destined later to be far otherwise applied. Note that on the third joint of the fingers the lines or ridges nearest to that joint run right across the finger, but the lines somewhat closer to the finger-tip follow the form of the nail. They take on the shape of a moderately rounded arch, and in the centre of the bulb of the finger is found the pattern proper of the finger-print.

Let the reader compare these fine curvatures of his own finger-prints with those of any friend. At a glance the differences will seem not very great. Let them be examined closely and the differences will be greater than at first. View the two hands then under a small magnifying glass, and the differences will be more than ever conspicuous. Briefly, the conclusion arrived at by Galton was that the chance of two finger-prints being identical is less than one in sixty-four thousand millions. If, then, in using the finger-print as a means of identification, two such prints are compared and are found to be identical, no doubt can be entertained "that they are prints of the same finger of the same person ; if they differ, the inference is equally certain that they are made by different fingers. The prints of one finger, if clearly taken, are therefore enough to decide the question of identity or non-identity, and if the prints of the three or more fingers be taken and compared, all possibility of error is absolutely eliminated."

Further, the lines and patterns of the finger-print are enduring ; in the living subject they neither vanish nor are modified by the lapse of time. They remain on the fingers of the dead until decomposition has caused the skin to perish. If the skin has been preserved by artificial means, the prints are preserved

also ; they are legible on the fingers of many Egyptian mummies. Mr. Galton took innumerable sets of prints covering the period from childhood to extreme old age. "As there is no sign," he said, "except in one case, of change during any of these four intervals"—from childhood to boyhood, from boyhood to early manhood, from early manhood to middle age, and from middle to extreme old age—"which together almost wholly cover the ordinary life of man, we are justified in inferring that between birth and death there is absolutely no change in, say, 699 out of 700 of the numerous characteristics of the markings of the fingers of the same person such as can be impressed by him whenever it is desirable to do so. There appear to be no bodily characteristics other than deep scars and tattoo-marks comparable in their persistence to these markings ; at the same time they are, out of all proportion, more numerous than any other measurable features."

Let me for a moment interrupt this description of Galton's system, to bring in a criminal case which might have furnished a most interesting test. A lady living at Highgate was found strangled in a room of her house. Examination of the premises gave no clue to the police until a well-trained pair of eyes observed that the room in which the murdered lady lay had been entered by means of the window, the sill of which retained the impressions of the four fingers of each hand. These marks were photographed, and proved legible. Suppose the murderer had been through the hands of the police, and Scotland Yard had had his finger-prints in its register : his identification would have been established at once.

In considering the value of the finger-print for

the purposes of proving or of tracing identity, the committee had before them the suggestion "that the finger-prints could easily be altered or removed, and if this were so it would be a fatal objection to their use." They satisfied themselves by experiment that the marks "could not be altered so as to cause any possibility of mis-identification." They are, indeed, capable of being destroyed altogether, but the process would be particularly painful, and it would, moreover, result in producing "a new personal mark of a most distinctive character." Another question is, how far the patterns may become obscured by hard manual labour? But the old and habitual "lag," in a state of freedom, is not at all in love with manual labour; nor when in prison is he generally employed at tasks that would tend greatly to modify the ridges of the hand. Impressions were taken of the finger-prints of one hundred prisoners at Pentonville—oakum-pickers, stokers, bakers, tailors, and so forth—and with the exceptions of two men who were maimed, the results in every case were "perfectly clear and complete."

All impressions are divisible into four types. The fourfold classification, the last arrived at, I believe, and the outcome of numberless trials, is said to meet every practical requirement. These four types of finger-prints are: Arches, Loops, Whorls, and Composites. An Arch is a pattern in which the ridges in the centre run from one side to the other of the bulb of the finger without making any backward turn. In the Loop, there is a single backward turn but no twist. The Whorl pattern shows a turn "through at least one circle, or a double turn in the form of a duplex spiral." The Composite includes patterns in which the peculiarities and combinations

of the Arch, Loop, and Whorl are recorded in the same print. There are subdivisions of the Composite into Central Pocket Loops, Lateral Pocket Loops, Twinned Loops, and Accidentals, which the expert revels in, but which are a sore exercise for the beginner. It is in no way necessary to expound them here.

We are next to consider and contrast the manner in which the measurements are taken under M. Bertillon's system and the impressions of the finger-bulbs under Mr. Galton's. Here the Englishman has a distinct pull over the Frenchman. The anthropometric method requires fine instruments very finely adjusted; allowance must be made for minute errors on the part of the operator, and for slight carelessnesses in entering the measurements on the card. Again, the parts measured, although practically invariable in adults, *may* undergo a variation, so small, perhaps, as to be scarcely appreciable, yet sufficient to give rise to doubt if the subject be remeasured after an interval of years.

The finger-print, on the other hand, considered as a means of proving or tracing identity, has this supreme and unapproachable value: it is an absolute impression taken direct from the body itself. A proper finger-print is necessarily a true print; a document complete in itself, which nothing can ever invalidate. And the process of taking the print is the easiest conceivable. The appliances, a sheet of white paper—ordinary foolscap will do—a bottle of printer's ink and a roller for spreading it, a slab of flat tin, and a bit of brass wire or a sharpened end of a penholder to use as a pointer for counting and tracing the lines or ridges. Ink the finger-bulb, lay it on the paper, and your impression is

recorded : a reversal of the pattern on the finger. A warder at Pentonville who had never before heard of finger-printing, and had never handled the materials, took for the committee in the course of an hour thirty-five sets of impressions of three fingers, each in duplicate, every one of which was perfectly legible.

In deciding what system should be adopted into the service of the English prisons, three principal conditions were laid down. (1) The descriptions, measurements, or marks to form the basis of the system must be such as could be taken readily and with due accuracy by Constable A of the Force or Warder B of any of H.M. prisons. (2) The method of classifying the descriptions must be such that the old hand seeking to conceal his identity under an *alias* could be confronted as promptly as possible with his real name and record. (3) The case being found among the classified descriptions, it was desirable that the evidence of identity be nothing less than convincing.

It is clear that the first and third of these conditions are fully met by the Galton scheme of finger-prints. The classifying of the prints requires highly trained knowledge, but we have seen that no peculiar skill is needed in taking them. As for the nature of the evidence afforded, it is as perfect as evidence can be. It is improbable that once in ten thousand years would the imprints of the finger-tips of two pairs of hands be found to coincide. But the second condition was less easily fulfilled. It was found that for a collection, say, of ten thousand cards Galton's method of classification would be entirely suitable. But a well-stocked Criminal Register contains tens of thousands, and Galton himself was of the opinion that to a collection of this size his mode of indexing could not well be applied.

In Bertillon's system, on the other hand, classification is one of the strongest points; and to this system accordingly the preference was given for primary classification, the finger-print method being adopted for secondary or sub-classification.

Meanwhile, some two years before its introduction into this country, anthropometry had found its way into the Province of Bengal. It spread, and at the end of 1898 some 200,000 cards had been accumulated in the several Provinces. India offers a first-rate field for anthropometrical experiment, the Hindoo being an adept at false personation, and excellent results were obtained. In Bengal, however, certain weaknesses had begun to show in the system; and it was in these circumstances that the Inspector-General of Police for the Lower Provinces, Mr. E. R. Henry (now Sir Edward Henry, our Commissioner of Police in London), began to cast a very intelligent eye on the finger-print formula of Francis Galton. The problem of classification, which had baffled Galton, was finally solved by Mr. Henry: a triumph, I believe, that none but a scientific mind could thoroughly appreciate.

With the Henry code in hand, the Government of India appointed a small independent committee to inquire into and report upon both systems, Bertillon's and Galton's. The committee recommended the adoption of the finger-print as classified by Mr. Henry; urging its superiority to the anthropometric method—(1) in simplicity of working; (2) in the cost of apparatus; (3) in the fact that all skilled work is transferred to a central or classification office; (4) in the rapidity with which the process can be worked; and (5) in the certainty of the results. The finger-print system was forth-



with introduced throughout the whole of British India.

Under the new process of indexing, the first classification divides all the different kinds of impressions into two classes, recognisable at a glance. Combinations of these classes, as exhibited in the ten fingers taken in pairs, enable all the descriptive cards to be arranged in 1024 classes, and to each class is allotted a separate pigeon-hole. By means of an ingenious key any pigeon-hole can at once be found, and the original of the most intricate card is produced in five or six minutes out of a file containing hundreds of records. For practical purposes, therefore, the English system, as developed by Mr. Henry, counted better than the French.

For a time the two methods, the Bertillon and the Galton-Henry, were worked together in our own detective service. It was presently found that the second would stand by itself; Bertillonage was discarded, and I understand that Scotland Yard—with amazing results in its pigeon-holes—claims the finger-print as the thief-taker of the world.

A recent story from India to round the subject off. The manager of a tea-garden in the district of Julpaiguri, on the Bhutan frontier, was found on his bed with his throat cut. His despatch-box and safe had been rifled, and a quantity of rupees carried off. One of the suspected persons was a former servant of the manager whom he had had imprisoned for theft; but this man, released from gaol some weeks before the murder, had not since been seen in the neighbourhood. Among the papers in the despatch-box was a calendar in book form, on the blue paper of which were noticed "two faint brown smudges." A magnifying glass showed one smudge to be part

of the impression of the finger of a right hand. The finger-prints registered in the Central Office of the Bengal Police were searched, and the right-thumb impression of one Kangali Charan, the ex-servant of the murdered manager, corresponded exactly with the smudge on the calendar. Kangali Charan was arrested. The chemical examiner to the Government certified that the brown smudges on the calendar were mammalian blood, "the inference being that the actual murderer or some associate had knocked his blood-stained thumb against the calendar when rummaging the papers in the despatch-box for the key of the safe." Kangali was put on trial, charged with murder and theft. Of the theft of the rupees he was easily convicted; but on the count of murder, witness failing, the prisoner escaped. Judge and assessor recorded their opinion that the charge of theft had been established, and the judges of the supreme court upheld the conviction.

## CHAPTER X

### CRIME AND THE MICROSCOPE

THE murderer who knew even a little of what the microscope reveals to the expert would rarely be at the pains of inventing fables about bloodmarks. A man in prison is suspected of murder or manslaughter. His clothes exhibit certain suggestive stains, or the stains are found on his knife or some other instrument. "Oh!" says he, "I was killing something the other day," and, if a person of some ingenuity, he will probably go on to name you an animal not easily procured in laboratories. In the next street resides a learned gentleman with a microscope and an extensive and peculiar knowledge of blood discs. It shall go hard with science but this gentleman will solve the problem.

Some years ago a certain man lay under charge of murder. Among the mass of circumstantial evidence against him was a knife "smeared with blood, which had dried both on the blade and on the handle." The prisoner said he had cut a piece of raw beef with the knife and had omitted to cleanse the blade and handle. The weapon was sent for microscopical examination.

The stain, said the expert, was certainly blood. "It was not the blood of a piece of dead flesh, but that of a living body; for it had coagulated where it was found." It was human blood. But the potent

tube brought more than this to light. Mixed with the blood on the knife were a few minute vegetable fibres. They were cotton fibres, and identical with the fibres of the murdered man's shirt and scarf. The prisoner, in brief, had cut his victim's throat, severing both shirt and neckerchief in doing so.

In a case of arson, some strips of tinder sewn together with a thread formed a chief part of the *corpus delicti*. The thread was compared under the microscope with a piece which the prisoner had used to mend his cap—and brought about his conviction.

The curious illustration that follows belongs, I fancy, to a day when the microscope was little used as an aid to criminal investigation. The late John Quekett, eminent in microscopy, was asked if it were possible to determine whether a small fragment of dried skin had once appertained to a human being. He would try, he said, to give the answer. A morsel was therefore despatched to him, "somewhat resembling what might be torn from the surface of an old-fashioned travelling trunk, with all the hair rubbed off."

Quekett arranged his specimen, and the microscope soon showed him "some fine hairs scattered over the surface. These, after careful examination, he pronounced with confidence to be *human* hairs, and such as grew on the exposed parts of the body, and declared the person who had owned them to have been of a fair complexion."

Now this piece of skin had been removed from the door of an ancient church in Yorkshire, and a tradition of the neighbourhood was that Danish robbers, a thousand years ago, had violated the sanctuary, and that, having been taken and flayed alive, their skins were nailed to the doors of the church. A few

scraps of skin had remained here and there under the nails with which the doors were studded ; and one of these scraps, tested by John Quekett's microscope, sufficed to make good the legend of the fair-haired Danish pirates of a thousand years before.

The reader has perceived that the expert in this instance not only pronounces the hairs to be human hairs, but adds that they are such as grow "on the exposed parts of the body." Wind, rain, hail, and the dusts of storms unnumbered have driven for a thousand years against the doors of this church in Yorkshire ; yet the hairs upon the patches of skin, of which the eye can discern no hint, have preserved their characters indestructibly through the destructions of all these centuries ; and it is instantly known of what colour they once were, and to what part of the body of some Danish pirate they once adhered.

Science being able to expound to us mysteries like these, it is the duty of the officer investigating crime to invoke the help of the scientific expert whenever and wherever his own knowledge and experience come short. The expert will show us not merely wherein the hair of animals differs from the fibres of plants, but how the characters of the former may be distinguished from the characters of the hair of man. Further, he will make plain for us the signs distinctive of the many kinds of hair upon the human body—the hair of the head, the hair in the nostrils, the hair of the eyebrows, the beard, the moustache, the hair on the chest, the limbs, the hair on the back of the hands. He will tell us whether the hair is that of a man or a woman. He will in some degree determine the age of a person by analysing beneath the microscope a small quantity of that person's hair. He may often

establish by examination of hair the identity of a corpse far advanced in decomposition.

Dr. Hans Gross observes that hair is very commonly found in the hands of persons who have been killed; he recommends that it be scrupulously looked for, and, where found, described with precision. He insists, for example, that it is not sufficient to state: "Hair found in the right hand of N.N."; the situation of the hair must be expressly indicated, e.g. "between the thumb and first finger," or "lying obliquely across the root of the first finger and the ball of the thumb." Such minuteness of description might help an investigating magistrate to understand the nature of the struggle that had taken place. "It must be remembered," Dr. Gross adds, "that every hair discovered during the course of an inquiry may be of the greatest importance when it is possible to prove beyond all doubt that it belongs to the accused person."

It may also, of course, import as much to prove that the hair in evidence belongs to some one else. You thus set free an innocent creature who may have been—in a sense the most literal—within a hair's breadth of condemnation. Here is an instance:—

An old woman engaged in the curious business of pledging and redeeming articles of pawn was murdered. In one hand of the corpse were discovered three hairs, which, it was surmised, the poor old body in her death agony had torn from the head of her assailant. Forthwith the hairs were delivered to two very noted microscopic experts. In prison under suspicion of the crime lay the old woman's son, of whose hair also some samples were sent to the examiners. "The three hairs found in the hand of the corpse were from six to seven cms. in length, were



dark brown in colour, had been torn out (the roots were preserved), and seemed to have belonged to a man of from twenty to forty years old." What struck the experts as somewhat strange was that, while two of the hairs were brown under the lens, the third was in some parts brown and in others black. "Just above the root it was brown, half a centimetre farther on it became black, then again brown, and half a centimetre farther towards the tip it became black again." The phenomenon is said to be of very unusual occurrence. Next were analysed the samples of hair cut from the head of the prisoner, and behold ! the fantastic phenomenon repeated itself. About "two-thirds of the hairs were brown and the other third presented absolutely the same peculiarity as the brown and black striped hair" found in the dead woman's hand. Now, indeed, might it have been thought that justice had her grip upon a parrieide. It was not so ! The youth who barely eluded the gallows had had no lot in his mother's dreadful death. The assassin was duly nailed, and the microscope established the fact that his hair was very nearly identical with that of the murdered woman's son.

It is probable that the microscope has not yet accomplished the half of what will one day be achieved by it in the interests of the law. The scientist and that legal party whose proper business is to thrust his nose, as Sancho says, into other people's porridge must know more of one another, and be in more familiar touch. The microscopist, all unaware of what is or might be wanted of him, can scarcely be expected to dance attendance in police-courts on the off-chance that his "wonder-seeing tube" may be of use to some barrister or policeman there. Not at all. It is the duty of the expert men of law to beg the

aid, as often as needed, of the expert men of science. And this duty presupposes and includes sundry other duties. Thus, the officer entrusted with a difficult case of crime should know just when the skill of the savant will be most useful to him; he should know the savant who ought to be consulted; he should know the questions that may and that may not be submitted to him; and he should know, moreover, in what manner the thing to be examined, the *corpus delicti*, should be taken from or guarded on the scene of the crime. The last-mentioned point is of cardinal interest and significance. Are there footprints, blood-spattered grass or bushes, a handful of dust, or a splash of dirt to be kept for the scrutiny of the scientific expert? They should be immediately insulated, if insulation is in any way possible, and the utmost care should be taken to cover and protect them till they are either in the hands of the expert, or till the expert can be brought to the spot itself.

Let us go back for a moment to the first illustration, that of the murderer who severed the throat of his prey and evidently thought that the blood of raw beef was much the same as the blood of a living man. How does the microscope differentiate these various forms of blood? How distinguish blood from stains resembling it? Place a drop of blood under a microscope, and you will see an infinite crowd of minute roundish bodies, of a light yellowish colour, swimming in a pale fluid—the *liquor sanguinis*. These are the blood discs, globules, or corpuseles. The faintness of their colour is owing to their extreme thinness, but the colour becomes plain enough when a great number of them lie immediately over one another. It is then either a deep red or a very elegant scarlet, the familiar hue of blood proceeding entirely

from its corpuscles. Manifestly, then, when stains of any sort are in question, the microscope is at once able to tell us whether they are blood or not. To the eye, a trace of blood does not always look like blood ; and something, on the other hand, that is not blood at all—a mark of paint or rust, etc.—is often suspiciously near to it in colour. But the expert at the microscope cannot be deceived. As to the other question, it is *not* always possible to say precisely whence the blood has issued. There is, however, one very good criterion—that, namely, of the dimensions of the discs or corpuscles ; and it will here suffice to say that those of the ox are not more than three-fourths as large as those of a human being. An accused, as has been suggested, will frequently declare that the blood found on him is that of an animal he has killed, but if the bloodstains on his clothes or weapon contain globules of a considerable size, and he names some animal whose blood discs are of an exceptional smallness, he has pretty obviously lied !

We may take it that a person who commits a crime with a weapon of any kind does in general try his best to clean the weapon. But by the very process of cleansing it he may convict himself. A strayed reveller in the garden of a restaurant had a quarrel with a dragoon, who split his skull open with a sabre stroke. The sabres of all the dragoons who had been out of barracks that day were collected and sent for microscopic examination. None of the weapons bore a trace of blood, but in the cutting edge of one an almost invisible particle of a blade of grass was sticking in an almost invisible notch. The notch had kept the particle of grass quite fresh ; it could not, therefore, have been sticking in that place very long.

The soldier to whom the sabre belonged was arrested and questioned, and finally admitted his guilt. He had scoured the blade in the moist grass (as the Phoenix Park murderers scoured their knives in the grass against the milestone on the Tallaght Road), and wiped it with a cloth—but the cloth had left in the notch that fragment of grass for the microscope!

Still, you may clean a blade so perfectly that the microscope itself will discover nothing there. But your search is perhaps not even yet complete. Is the weapon a clasp-knife? Is it a dagger? Is it a hatchet? Let the blade or the iron be drawn from the handle, and see whether murder will out then! Blood lurks in crevices that the eye will scarce perceive.

In a hop-growing district abroad, one of the fields of a wealthy cultivator was destroyed during the night, shortly before the harvest season. A small contiguous estate was in the occupation of an unsuccessful rival who was known to be jealous of his neighbour. This man was laid hold of, and a microscopist was asked for an opinion on his pocket-knife, a formidable affair with a curved blade—the very thing for slicing into your neighbour's hops. First, however, the careful expert procured a hop plant or two, and made a study of the plant and its rind. The peculiar spurs on the branches of hop were perceived to be wholly different from the spurs on the rind or peel of sundry other plants that were compared with them under the microscope. Next, the knife with the serviceable blade was taken to pieces, and in the place where the blade had been united to the handle the microscope shone upon a quantity of the atom-like spurs of the hop. Beyond

a doubt the knife had very recently been used to cut hops ; and the least successful farmer does not make away with his crops before the harvest.

Now let us see how the microscope can tackle the forger and the falsifier of documents. Inks are of many kinds, and the forger often has a difficulty in making a perfect match. The eye is easily deceived, and the magnifying glass is not in all cases to be relied upon ; but if the question turns upon the employment of different inks, the microscope will give the answer pat. There are, I need not say, some first-rate chemical tests ; but the advantage of the microscopical over the chemical analysis is this, that the first leaves intact the object which the second must in some degree destroy. Few of us possess the simplest outfit of a burglar, but a decently appointed writing-table will give anyone his opening in forgery. Add to this that the banker's cheque is a common medium of exchange—and the frequency of forgery should in no way surprise us. In this association, forgery is extended to include any effort to falsify any kind of document.

The photographic test will often in these cases be as valuable as the test by microscope. Wherever, in the process of obliterating the written sheet, mechanical means have been employed, the paper must have undergone some amount of thinning. Such a thinning of the paper should be, and usually is, appreciable by the unassisted eye ; but if it be photographed by transmitted light, the local injury to the paper appears very plainly as a blot of considerable density—a blot that speaks like a blood-print.

But it is to the microscope that all writing suspected of falsification should in the first instance be

submitted. Paper can be, and is, manipulated in the most surprising and fairy-like ways—with water, with corrosives, with paint, with grease, with heaps of things. The subtlest imposition in this art breaks down under the gaze of the microscope. A false sheet of paper may be slipped into a will, seals and watermarks may be imitated as exactly as an ancient yellow stain, and it is easier to counterfeit a grease-spot than to pencil an eyebrow ; but the distinction of the genuine from the sham is play-work to the microscope. You can be confidently told by the microscopist what style of pen—hard or soft, broad or fine—you selected to trace the will that has come to spell for you a killing sentence of penal servitude !

Divers crimes can be committed on paper : threats, libels, perjury, forgery ; and a post card, a half-sheet of note-paper, or a leaf torn from a copy-book or diary may be of paramount importance in a case. What sort of paper has the accused been in the habit of using, is a question the investigating officer will sometimes have to ask himself, and he will thereupon most likely proceed to a domiciliary search. Is there any paper on his premises which looks in the least like the *corpus delicti*, the subject-matter of the crime ? It should be entrusted without delay to the microscopic expert. Dr. Gross remarks that the objection “ will often be wrongly made that the majority of the people of a locality buy their paper at the same establishment, or at least at a very small number of establishments, so that the most certain proof of the identity of two papers cannot serve for very much.” A character of forgery cases is that the criminal eschews the paper commonly sold in his own neighbourhood. He will buy



it at a shop some distance away, or perhaps tear a sheet from an old exercise-book, or use the second leaf of a sheet of note-paper. "If the other half is found at the residence of the accused, the proof of identity made by the observer at the microscope will be practically conclusive." On one occasion recourse was had to the microscope to prove that a lump of paper forming the wad of a firearm was the same as the paper found in the house of the supposed murderer. Of course, however, these examinations will now and then prove just a trifle too much. We should scarcely hang a man on the evidence just cited, though it might conceivably be the one proof that had been missing. Great in all these cases are the uses of the microscope.

From the fine handiwork of such a prince of counterfeiters as "old man Johnson" of America (who put in circulation a million dollars' worth of bogus money) the microscopist may be called upon to deal with so vulgar a thing as a scratch, or the discoloured nails of a prisoner or a corpse.

The life-and-death wrestle between a murderer and his victim may leave bloody scratches upon both. If the dead body and the suspected criminal are both in the hands of justice, both should be closely examined. Are there scratches upon the face or hands of the murdered person? If so, let the finger-nails of the accused be seen to. Some correspondence may be observed between the nails and the scratches. The officer may not at first have perceived or looked for the marks of scratching on the corpse, but he may have noticed dark red matter under the nails of the prisoner. Such matter should be collected and sifted by the microscope, when it may possibly be found to contain blood and scales of skin; and then if

the corpse be scrutinised, the marks of scratches may be noted. No direct or positive evidence might be gathered, but a helpful inference might be drawn. The investigator with the genius of his work neglects not a particle of dirt, not a few grains of sawdust ; and the microscope will frequently reward his care. The forlornest hope holds something and is worth standing by.

In the hands of a crafty officer a thing that has no real bearing on the case may be the means of extorting a confession. Here is an instance of the consideration that should be given to stains of every sort. A large, thick stain on the trousers of a man standing his trial for murder took the eye of the investigating officer. The microscope pronounced it putty, but not a single trace of putty was found where the crime had been committed. The prisoner was interrogated. He himself (as it turned out) did not know what the mark was, nor how he had come by it ; but, thinking that it must have some connection with the deed, he spun a tale to account for it. This, of course, betrayed him to the investigator, who had learned that the stain was putty. He quickly showed the accused that his story was false ; and the man, unnerved by the apparent omniscience of justice, yielded and acknowledged his guilt.

Lastly, when you have a suspect in the cells, request him to oblige you with his boots. Mud upon the soles will communicate its secrets to the microscope. A foreigner detained for theft was believed to have deposited a large sum of money in a hollow tree on the bank of a stream. The scene had been visited by the magistrate, and as the man had been arrested quite close to it, his footwear, it was thought, might

yield a clue. Forthwith the mud on his boots was tested by the microscope. There were two layers of mud on the soles, with a layer of sand between them. In concealing his booty the man had trodden first in the mud, then on the sand of the bank, and then again in the mud.

## CHAPTER XI

### CRIME AND THE CAMERA

CONSPICUOUS among the relics of the Camden Town murder were charred fragments of a letter; photographs of these burnt scraps played an important part in the chain of circumstantial evidence whereby the police sought to bind Robert Wood.

An authentic case or two will show us at a glance what services photography may render to the criminal law. A photograph, we know, is a strictly impartial thing, and no amount of hard swearing will destroy the evidence it establishes.

It is probably remembered that President McKinley was assassinated at the opening of the Buffalo Exhibition. A cinematograph machine from the Edison laboratory was on the spot, playing, all unwittingly, the rôle of first detective. Some very fine pictures were taken, and these, a day or two later, were under examination by the Criminal Investigation Department.

The officers of the department at once made an interesting discovery. Among the crowd surging and swaying around the President the figure of one man stood out with damning distinctness. Picture after picture thrown off by the translucent ribbon showed the same man, and always under terrible excitement of feeling; tense and battling amid the throng.

He struggles towards the spot where the President is delivering his address. The people whom he thrusts from his way turn and glare at him; he fights on, getting nearer and nearer to the front. The expression on his countenance is extraordinary; all his energies are knitting up to some appalling purpose. Now he has almost attained his goal, and now also—arrested by fate for one sufficing instant—he turns his features full upon the camera. This man was Czolgosz, the President's assassin.

A second case, as dramatic as the first, gives us the camera in the rôle of preserver of the innocent. An Englishman in Rio de Janeiro was charged with the murder of his colleague, a Brazilian. They had quarrelled, but the quarrel was said to have been amicably settled, and they had sailed together in a yacht.

Late in the day the Englishman brought the yacht back to harbour, with the dead body of his companion. His statement was that the Brazilian had fallen from the masthead to the deck. This was generally disbelieved, and medical experts testified that a wound on the dead man's head might have, and probably had, been produced by a blow from a stick or an oar.

Scarcely could the accused have stood in a situation more desperate. Then came as witness in his behalf an opportune tourist on a steamboat. This providential person had directed his kodak upon the harbour, and the little picture he had snapped revealed a dark spot on the white sail of a passing yacht. The photograph was enlarged, and the dark spot then took the form of a man falling from the masthead. The Englishman had spoken the truth, but it had needed the camera to confirm his story.

What possibilities are here unfolded to us of the camera as an aid to justice ! It is, in truth, with photography as it is with microscopy : we have never yet put the one art or the other completely to the test. By and by, for instance, when we have begun to question the facile verdict of "Suicide," the microscope—brought to bear on the contents of the stomach—will astonish us with returns of murder.

We are, as I have said, at a very early stage of microscopy in the investigation of crime. It is precisely the same with photography. We know vaguely what it has already done for justice ; but the revelations of to-morrow are but beginning to be prefigured.

Now let us detail the question a little. Any and every perishable thing on a scene of crime should be photographed instantaneously. A wound is a perishable thing ; it begins to heal in the imperceptible moment of its infliction. A man is struck in the neck ; the gash begins instantly to close. A footprint is another very perishable thing. It may or may not be possible to take the impression accurately ; it is always possible to take a photograph.

Sooner or later we shall train our police in photography ; and a cheap, portable camera will be a part of the policeman's outfit. On the Continent, where the application of the camera to legal purposes is better understood than at home, they recognise a scientific and also what may be called a popular employment of it. The investigating officer in a matter of crime is often an amateur photographer, and finds it useful to append to his report a picture of the locality he has inspected. An official document of the kind may thus gain immensely in clearness.

Or the investigating officer, setting forth on his



preliminary inquiry, may take a photographer with him—doubtless it would be better that he should always do so—and the artist is not necessarily a professional. Any simple citizen with a camera may render a turn to justice; and the amateur photographer at a race meeting, a regatta, or any public ceremony in the open air cannot be too careful over his work. He can never tell what his negative contains. The operators from Mr. Edison's laboratory had not a notion that they were going to assist the police in their identification of Czolgosz!

It is well to insist on the help that the amateur may give. A very difficult function, of course, is that of the expert photographer whom the law now and again summons to its aid, and whom it will summon far oftener in the future. It is the expert who will make photography important in unexpected places in all kinds of criminal inquisitions.

"Perchance in a little while," says Dr. Gross, "we shall hardly be able to understand how we were able formerly to conduct any case without invoking at each moment the aid of scientific photography." The sensitised plate has been exquisitely described as the new retina of the man of science; and wherever the camera can range beyond the eye it will in course of time be employed for reference in courts of law.

Dr. Gross suggests that the magic-lantern slides or even radiographs "may yet play a great rôle in the law courts. Anyone who has had to show and explain a very small object in court is aware of the inadequacy of present methods. The explanation has to be given over and over again . . . all who have business in courts know how tedious and defective is this method."

Now, with a whitewashed wall or a screen the

objects enlarged could very easily be shown by means of the lantern, "not only transparencies, but wood engravings, photographs, prints, handwriting, etc."

Along with the microscope, photography is of the utmost importance where there is question of a forged or suspicious document. An objection might be raised to bringing chemical reagents into contact with the original paper when, for example, it is suspected that figures or letters have been fraudulently added to a will or a banker's draft; but in such a case recourse could always be had to the camera. If the ink with which changes have been made in any document is of a different kind from that used in the body of the document, it is practically impossible for the camera to be deceived. Erasures, obliterations, or scratchings out, which may be so delicately done as to escape notice by the eye, are made plain with the help of photography.

By reducing two writings, the forged and the genuine one, to the same scale, comparison is greatly assisted; and more important still are photographic enlargements of the two writings. It is obvious that the larger the letters one has to work upon the easier is it to discover fraud.

Since the introduction of the finger-print system the police trust less than of old to the identification of suspects by photographs; but there is no doubt whatever as to the value of a good collection of criminal portraits at head-quarters.

The microscopist, an indispensable person in many criminal inquiries, should always photograph the results of his experiments; there could then be no awkward suggestions on the part of the defence that what he had examined under the lens was not a bloodstain, but some less incriminating mark.

As was stated a while back, we scarcely know to-day what the camera has in store for us. An intelligent amateur was asked whether a *thought* could be produced on a photographic plate. Here is the astonishing result: "He fixed postage stamps on a black card, and gazed at them for a moment. The room was then darkened, and a sensitive photographic plate was fixed in the same place where the stamps had been." When the gentleman examined the plate twenty minutes later, "he found two clear pictures of the stamps upon it." At this rate we may one day photograph the thoughts of the prisoner in the dock.

## CHAPTER XII

### THE PSYCHOLOGIST IN THE WITNESS-BOX <sup>1</sup>

THIS is, I believe, the first treatise of its kind. Briefly, it is an application of certain methods of experimental psychology to certain problems of law. Experimental psychology is itself one of the newest of the sciences. It took its rise in Germany, where, as recently as the eighties of the last century, Wundt, of Leipzig, established "the little psychological laboratory," which "was still the only one in the world." Some of his intricate machines for measuring intervals of time, measuring velocity, measuring work or effort, and so forth, were strange enough to the students of that day, who could not quite make out what psychology had to do with them. From Germany the new psychology travelled to America; and in that country to-day, says Mr. Münsterberg, "there exists hardly a university which has not opened a workshop for this youngest of the natural sciences." How many workshops of the sort would be found in England?

At work in its own quarters, experimental psychology directed itself to fresh problems and groups of problems. "Groups of mental functions which yesterday seemed beyond the reach of experimental laboratory methods to-day appear quite accessible.

<sup>1</sup> "Psychology and Crime," by Hugo Münsterberg, Professor of Psychology, Harvard University.

It may be said that there is now hardly a corner of mental life into which experimental psychology has not thrown its searchlight." Detached at first from the problems of practical life, applied psychology seeks henceforth to become an independent experimental science, which shall stand related to the ordinary experimental psychology as engineering to physics.

"Even the business world begins to understand that the effectiveness of economic life depends in a thousand forms on factors for which the student of psychology is a real specialist. His experiments can indicate best how the energies of mill-hands can reach the best results, and how advertisements ought to be shaped, and what belongs to ideal salesmanship. And experience shows that the politician who wants to know and to master minds, the naturalist who needs to use his mind in the service of discovery, the officer who wants to keep up discipline, and the minister who wants to open minds to inspiration—all are ready to see that certain chapters of Applied Psychology are sources of health and strength for them. The lawyer alone is obdurate."

It is, then, to the lawyer that the sketches which make up this volume are especially addressed. They deal essentially with the mind of the witness in the witness-box. Mr. Münsterberg treats here of illusions, the memory of the witness, the detection of crime, the traces of emotions, untrue confessions, suggestions in court, hypnotism and crime, and the prevention of crime. To some of the leading points raised in these very interesting chapters attention may be asked. The author, never dogmatic, is almost always suggestive.

Illusion in the mind of a witness is probably of far more frequent occurrence than courts of law in general are willing to acknowledge. With the testimony of the dishonest person we are not here concerned; what is important to notice is that well-intentioned witnesses of sound mind differ greatly, and with a certain observed regularity, in their reports of things that they have seen and heard. Our common and perfunctory habit is to throw the responsibility upon memory; we omit to take account of the fact that men vary not a little in their powers of perception. Does the court "take sufficient trouble to examine the capacities and habits with which the witness moves through the world which he believes he observes"?

"There was a case where it was essential to find out whether at a certain riot the number of guests in the hall was larger than the forty who had been invited to attend. There were witnesses who insisted that there could not have been more than twenty persons present, and others who were sure that they saw more than one hundred."

It is, of course, in certain cases, of the utmost importance to make sure of all the physical happenings; but how often is it deemed necessary to determine the value of that very influential factor, the mind of the witness—his power of seeing, his power of reporting on what he has seen? From the results of experiments made by him in his own laboratory, the author found that many of his students could not tell whether the points on a dial moved with the slowness of a snail or with the rapidity of an express train, whether a time interval was half a second or a whole minute, whether a marked card contained



twenty-five spots or two hundred, whether the moon is as small as a pea or as large as a man. In brief, there seem to be many minds, sane enough, which are unfit to report upon incidents they have witnessed.

“Experimental psychology has at last cleared the ground, and to ignore this whole science and to be satisfied with the primitive psychology of common sense seems really out of order when crime and punishment are in question, and the analysis of the mind of the witness might change the whole aspect of the case.”

Judge and jury may do their best to weigh the testimony submitted to them, but errors must constantly creep into the work of courts “through wrong evidence which had the outer marks of truth and trustworthiness”; and it may very likely be that a false statement which seems a deliberate lie is frequently the result of an illusion of memory on the witness’s part.

“No one on the witness-stand is to-day examined to ascertain in what directions his memory is probably trustworthy. He may be asked what he has seen, what he has heard, what he has spoken, how he has acted, and yet even a most superficial test might show that the mechanism of his memory would be excellent for one of these four groups of questions and utterly useless for the others, however solemnly he might keep his oath. . . . While the court makes the fullest use of all the modern scientific methods when, for instance, a drop of dried blood is to be examined in a murder case, the same court is completely satisfied with the most unscientific and haphazard methods of common

prejudice and ignorance when a mental product, especially the memory of a witness, is to be examined."

The means suggested by Mr. Münsterberg for getting at facts are still untried so far as courts are concerned, but he himself has put them to successful tests, in the laboratory, in the houses of persons by whom he has been privately consulted, and even—with permission of the authorities—in the cell of the condemned prisoner. The principle underlying the method is the familiar one of the association of ideas. With the help of the chronoscope—an instrument for measuring extremely short intervals of time—and words skilfully arranged, a subtle kind of cross-examination may be made, which brings mental facts under experimental test, "to make sure whether there are lies in the mind of the suspect."

All that is required of the person under examination is that when he hears the word given to him by the examiner he speaks out as quickly as possible the first association which the word summons to his mind. It is desired to know whether he has or has not participated in a certain crime. The innocent man could offer no objection to the test; the guilty man, resolved to face it out, would hesitate to offer one.

"Moreover, he will feel sure that no questions can bring out any facts which he wants to keep hidden; he will be on the look-out. As long as nothing more is demanded than that he speak the first word which comes to his mind, when another word is spoken to him, there is indeed no legal and no practical reason for declining, as long as innocence is professed."

Among the hundred words selected by the examiner, there might be mixed twenty-five or thirty which had a more or less intimate connection with the crime. To the innocent subject these words will be as indifferent as the others; but, says the author, the guilty subject will very soon find himself in error if he believes that none but harmless replies will spring to his lips. "As soon as a dangerous association rushes to the consciousness, it tries to push its way out." By an effort of self-control the word that demands utterance may be kept back, but the idea remains in the mind, and may influence the next reply or the one after that. Here is one of Mr. Münsterberg's dramatic instances, showing how the method may work :—

"He has, perhaps, slain a woman in her room, and yet protests that he has never been in her house. By the side of her body was a cage with a canary bird. I therefore mix 'bird' into my list of words. His mind is full of the gruesome memory of his heinous deed. The word 'bird,' therefore, at once awakens the association 'canary bird' in his consciousness; yet he is immediately aware that this would be suspicious, and he succeeds, before the dangerous word comes to his lips, in substituting the harmless word 'sparrow.' Yet my next word, or perhaps my second or third, is 'colour,' and his prompt association is 'yellow'; the canary is still in his mind, and shows its betraying influence."

In an examination of this kind the time measurements are obviously of great importance. "A word which stirs emotional memories will show an association-time twice or three times as long as a commonplace idea." A cool subject might indeed

hesitate scarcely at all in replying to an awkward word, but if he were slow in answering two or three indifferent words that followed, it would be a permissible inference that his mind had been in some degree dissociated. "The emotional shock has perturbed the working of the mechanism, and the path for all associations has become blocked"; and Mr. Münsterberg remarks that the analysis of these "secondary time-retardations" is the factor which demands the greatest psychological skill.

He goes on to ask what would be the situation of an old criminal with little or no conscience, who knew beforehand that the experiment was to extract the truth from him.

"In that case another group of factors is to be considered. We might expect from such a subject very little lengthening of the simple association by emotion, but instead of it a considerable lengthening by conscious effort to avoid suspicious and dangerous associations, provided that he were anxious to hide the damaging truth. As soon as a critical word were offered, he would be on the look-out not to betray the first word which came over the threshold of consciousness, but to make sure first that it was harmless, and to replace it if it were dangerous. Experiment shows that such watching and conscious sanctioning takes time, and the replacing of the unfit word by a fitting word brings still larger loss of time. . . . If the dangerous words show association-times of unusual shortness, it is necessary to suppose that the subject of the experiment makes no effort to suppress the truth; the short time proves that he lets the ideas go as they will. Even the best bluffer will thus be

trapped in his efforts to conceal anything by time-differences which he himself cannot notice."

This detective psychological work as explained by the author is not the less interesting that it has no legal standing to-day, whether in America or anywhere else. It is sane, clean, direct, and searching; a mode of examining mental facts which is eminently scientific. We are, of course, only at the beginning of the development of experimental psychology; but who knows when we may see the psychologist included among the experts of the criminal court!

In dealing with the traces of emotions, Mr. Münsterberg goes farther, and shows how the new science "can register objectively the symptoms of the emotions, and make the observation independent of chance judgment," how it can "trace emotions through involuntary movements, breathing, pulse, and so on, where ordinary observation fails entirely." We have not quite reached the time, however, when a "breathing and pulse curve" may be made the basis for a legal condemnation or acquittal.

And what of hypnotism in its relation to law and court, to crime and criminal procedure? Imaginative persons in America, it seems, are occasionally heard to propose that the court should apply hypnotism, "for the purpose of unveiling the hidden truth." Hypnotism, successfully employed, has the power of breaking down the resistance of the will. Why not command a hypnotised witness to speak the truth? It looks simple enough. But hypnotism cannot work on an unyielding brain as an operator may work on a patient with a chloroformed sponge; and even if such hypnotisation by force were always possible, no

civilised court would be likely to listen to evidence extorted in this way.

Just possibly a defendant wrongly accused or a suspected witness might desire to be hypnotised in his own interest. But the subject under the power of the hypnotiser is no longer in full possession of his mental energies ; he has, in a measure, ceased to be himself, and " would therefore not remain legally the witness who took the oath before the hypnotisation." In the famous melodrama of " The Bells " the court hypnotises the accused (at least, Mathias dreams that he is so hypnotised), but outside of fiction or the theatre the event is incredible.

Fiction more amazing than responsible has shown us the hypnotist as inspirer and compeller of crime. Mr. Münsterberg flouts as absurd inventions the deadly eye that fascinates at a glance and the malicious magnetism from a distance, but admits that " slow and persistent gaining of power over an unresisting mind " is within the limits of the possible. Not every one, however, can be deeply hypnotised, " while only one of four enters into strong hypnotic hallucinations." The full hypnotic state itself may conceivably fall within the realm of criminal action, but we have no knowledge of a murder committed by a person of innocent mind " under the influence of post-hypnotic suggestion." It is the weaker state of openness to suggestion that makes the real hotbed of criminal impulses ; alcohol poisoning is probably one of the conditions.

Has any court condemned a prisoner for a murder in which he was a merely passive instrument ? It is not impossible, but we have no proofs that involve the hypnotist. There is, or seems to be, a zone of the brain that criminal hypnotic suggestion does not reach.



## CHAPTER XIII

### THE POLICE DOG<sup>1</sup>

THE employment of the dog for civil and military purposes is in some degree a return to ancient custom. Cambyzes, as Major Richardson reminds us, used dogs on his campaign in Egypt six thousand years ago ; and by the Romans they were trained for the defence of the ramparts. In the wars of the Middle Ages dogs often guarded convoys and baggage, and, clad in mail with scythes and projecting spikes, were used to distract the enemy's cavalry and bring confusion to his ranks.

Henry VIII sent to the Emperor Charles V four hundred war dogs which did valiant service at the siege of Valencia. The Scottish Field-Marshal Keith supplied Frederick the Great with collies for sentry work. Napoleon was impressed with the value of the dog for certain needs of war. The police dog, not regularly or extensively pressed into service in the past, was known at St. Malo in the eighteenth century ; and long before the establishment of a paid police force the bloodhound did police business as a tracker.

Major Richardson has despatched trained and accomplished dogs of one breed or another to South Africa, the United States, Turkey, and elsewhere. He has studied on the spot the methods adopted in

<sup>1</sup> "War, Police, and Watch Dogs," by Major E. H. Richardson.

whatever country of Europe dogs have been introduced for war and watch, protection and detection. It is unlikely that the dog will ever again be brought upon the field as a combatant ; but for scouting and sentry and ambulance work his peculiar powers of sight, smell, hearing, and his sagacity, endurance, and general trustworthiness will certainly be availed of.

In Belgium, France, and Germany the police dog has passed the probationary stage. He has been tried, proved, and enrolled among the force. He assists and supplements the man in ways peculiar to himself. He can see, smell, and hear better than the savage ; and the savage, of course, has all these qualities far more highly developed than the civilised subject. The dog's hearing, for instance, is about 400 yards better than a man's. He does not tire in a chase that leaves the best-winded athlete standing. He has the courage that is rarely put out, and that mounts with occasion. He can intrude himself easily and lie hidden easily ; can run, leap, and swim to envy. Doing all this, it is found abroad that he begins to be a check upon crime. In neighbourhoods known for the possession of a first-rate police dog the criminal is less active than he was. This, an important point, is made good in a passage cited by Major Richardson from the German *Police Gazette* :—

“ Not only do the police dogs decrease crime, but their presence has a strong moral effect, and bad characters avoid towns where police dogs are kept. In towns where these dogs are used, petty theft has almost disappeared, and a great sense of security is given to the inhabitants.”

Major Richardson distinguishes two kinds of dogs for police work. First (though not necessarily first

in importance) comes the "executive" dog, the animal that accompanies the policeman on his beat at night. Next comes the "criminal tracking" dog, which must have exceptional powers of scent and be capable of running a cold trail. The chief duties of the executive dog are :—

1. To give warning of anything unusual in the immediate neighbourhood of the policeman.
2. To guard the policeman against attack.
3. To capture and hold escaping criminals.

As used abroad, the executive dog is "of an exceedingly savage and suspicious nature," and such a protector must be useful to the Paris police in districts harassed by the apache, and in other Continental towns infested by criminals who do not hesitate to show fight. Major Klein, of the police dog section in Berlin, informed Major Richardson "that these executive dogs had made a complete clearance of dangerous characters frequenting their quarter at night." The ordinary executive dog is the patrol dog of the night policeman. He is taken out muzzled and on leash, and can be unmuzzled and slipped in a moment. He needs just enough nose to warn him of any person in the immediate neighbourhood, but is not expected to track the criminal whose flight has carried him a stage or two beyond. It is then that the tracking dog is called in. These hounds, says the author, "are kept at different centres, and telephoned for in cases of emergency. They are taken by rail or motor to the scene of the crime, and put on the trail of the suspect. There are wonderful instances in Germany where dogs have been of great use to the police in tracking criminals who have escaped, and I was enabled to investigate many cases and to find that, if the dog is brought to the scene soon enough

after the crime is committed, he has certainly tracked down the criminals when all other means have failed. The wild tales, however, of criminals being tracked days after the crime has been committed, or through crowded streets, may be styled unvarnished lies."

In Germany at the present time these dogs are used in over 600 towns, and it is said that since their introduction crime in large cities has fallen on an average 35 per cent. The Paris dogs, "which entirely come under the heading of executive dogs," are of a big and heavy type, principally cross-bred sheep-dogs. Belgium has recourse chiefly to the native sheep-dog. Germany favours sheep-dogs, Doberman Pinscher dogs, and Airedales imported from England.

On the Continent the policeman must often be prepared for a murderous attack. Assaults of this kind are less common in England, and for the executive dog in this country Major Richardson recommends "a strong, hardy, intelligent animal of a determined, but not of a ferocious disposition." He puts out of count all the larger breeds, and, among the medium-sized, finds the ideal qualities in the Airedale. "I have found that the old-fashioned heavy type, with a good wiry coat, is a particularly useful dog, and a dash of collie, sheep-dog, bull-mastiff, or retriever in him helps his character." He gives practical directions for training, working, feeding, and kennelling these dogs.

For the business of tracking we have in England the best dog of all—the bloodhound. Most of the canine breeds will probably do tracking of some sort, and Major Richardson's experiments have satisfied him that collies are serviceable even on a trail that is cold. But whereas neither collie nor retriever will stick long

to a faint or broken trail, the bloodhound's purpose never slackens. While there is scent of any kind about it is practically impossible to tire out a bloodhound ; and oftener than not, at present, his powers are put to the test on a trail that is many hours old. One of Major Richardson's hounds tracked a poacher to his cottage nine miles across country, and after a course of this distance the dog would probably be as fresh as on starting from the kennel.

In any district haunted by criminals the knowledge that a trained bloodhound could be slipped at a moment's notice would doubtless exercise a wholesome deterrent influence. Man is the natural quarry of this dread hunter, and criminal man has ever held him in fearful esteem. Major Richardson himself has put this to the proof.

"I am constantly being asked [he says] to hire a hound to neighbourhoods suffering from epidemics of various crimes, such as arson, cattle-maiming, etc., and the effect of the hound's arrival has been a complete cessation of the crimes."

None but a properly trained hound should be used in police work. Under long disuse the finest instincts will lose their native force, and during the last half-century the bloodhound has been bred more for the show bench than for his proper functions. Moreover the best-bred and best-trained hound must be kept up to the mark by being regularly schooled over different tracts of country.

It can scarcely be questioned that there is room for experiments here on the lines suggested by Major Richardson. The Berkshire Constabulary, it seems, have made a start, and a dog furnished by him for night duty at Clewer police station, Windsor, "has given great satisfaction." Districts might be selected,

and careful trials given over a course of months both to patrol dogs and to trackers. There is only one circumstance that Major Richardson does not deal with in this very interesting and thoroughly practical essay. It is that the criminal classes themselves would, in course of time, adopt special measures of their own against the special measures of the police. Is it, for instance, impossible that the burglar and the apache should train dogs to cope with the patrol dogs ?



## CHAPTER XIV

### JIU-JITSU FOR THE POLICE

I UNDERSTAND that the City Police have been through the hands of a native professor of the Japanese art of Jiu-Jitsu. Until recent years this extraordinary Oriental system of combat and defence has been kept a close secret from all Western nations. There is no fist work in jiu-jitsu, but the blow with the edge of the hand and the jab with the forefingers in the solar plexus may be delivered with more deadly effect than can be produced by any right or left from the shoulder of the Western pugilist. You cannot, in fact, defeat the Japanese in physical encounter. This is, moreover, the politest method of combat in the world, and Mr. Irving Hancock, in his treatise on "Japanese Combat Tricks," assures us that the trained and consummate exponent of jiu-jitsu is never a bully. He might, if fighting for his life, deem it necessary to despatch you summarily with an edge-of-the-hand blow at the back of the neck ; but in any ordinary encounter he would consider it rude in the extreme to blacken his opponent's eye. That primitive style he leaves to us ; his own is an effective blending of Oriental cunning and urbanity. Thus, he knows how to reduce the whole frame of an opponent to that painful condition of which the "funny-bone" of the elbow is typical. A certain deft gripping of muscle and nerve at their most sensitive points

enables the same effect to be produced at countless spots of the arms, legs, neck, back, and trunk ; and this is the secret of jiu-jitsu, the Japanese physical training. A peculiar nip or blow, which, to the eye of a spectator not familiar with this kind of attack, would seem almost harmless, causes temporary local paralysis ; and the expert boxer, face to face with the expert jiu-jitsian, soon finds that the old-fashioned Western methods of fighting are neither offensively nor defensively good against the craft and finesse of the East. Mr. Hancock shows us, indeed, how a skilled boxer may be “ stopped ” in the first round, and actually made to defeat himself.

“ The feat begins with a defence against the boxer’s left-hand blow. The man on the defensive must shoot both his hands forward and upward at the coming left hand of the opponent. The hands of the man on the defensive are well together, very much in the form of a ‘ V,’ although the heels of the hands do not quite touch. It is this ‘ V ’ that is shot up to catch and encircle the boxer’s fist—not his wrist. At the instant that the assailant’s fist is caught in this ‘ V,’ the man on the defensive wraps his fingers around the captured fist.”

One among the many admirable photographs with which the book is illustrated shows just how this encircling of the fist is accomplished. Mr. Hancock continues :—

“ Now, the man who has captured his adversary’s fist must be prepared to move that fist wherever he wants it to go, in front or at the side of the owner’s body. It may seem that the owner of the captured fist can block this movement by exerting the

muscles of his left arm to their utmost, but again it is to be pointed out that the man on the defensive has all the strength of two arms with which to oppose whatever strength his opponent can put into one arm."

But the man whose left fist is thus held in a vice has his right arm free. Can he do nothing with this? Mr. Hancock makes it plain that he can do nothing of importance. It is here, in short, that the essence of the trick comes in. Thus:—

"Let the man strike out with his right fist. The man on the defensive brings that captured fist and its arm swiftly down, crossing the forearm of that captured fist over the forearm of the opponent's assailing right. It is a complete block, stopping the boxer's blow. And the same manœuvre will stop any blow that the boxer can try to deliver with his right. . . . It is impossible to make any striking blow with the right that cannot be stopped by swift contact with the captured left. . . . There is no escape for the boxer, and he is made to submit to the humiliation of practically warding off his own blows."

There is no device known to the ring for which the adept at the jiu-jitsu mode of combat has not an immediate and effective counter. Every feat performed by the latter is based on some natural law, and the extension and perfection of the feat depend upon the student's ability to observe natural laws and to apply them. Incessant practice is indispensable, and Mr. Hancock recommends the student never to let himself get rusty, and never to take up a second trick until he has mastered the first,

and can go through it with the swiftness and precision of thought. He describes many of these subtle tricks, such as edge-of-the-hand blows, grips, pinches, holds, twists, throws, prods, and so forth ; and there is little doubt that the student who made himself absolutely proficient in a dozen of them would be able to ward off most forms of attack. It is evident, for example, that the skilled jiu-jitsian can usually take good care of himself, even when attacked by two or three hooligans of more than average brawn, for the terrible Eastern method demands none of the brute strength of the heavy-weight boxer. Jiu-jitsu is the art of the weaker subject, and a woman trained in a few of its subtleties might readily overpower an assailant of the other sex who knew none of them. In Japan every policeman, soldier, and sailor has to undergo the course, and Mr. Hancock tells an amusing story of the discomfiture of some rowdy European tars by one little yellow "bobby," who led four of them captive to their ship.

## PART III

### CHAPTER XV

#### THE FUTILITY OF FLOGGING

FOUR years ago, at Cardiff, there was what is called a Flogging Assize. It was one of those sudden and sporadic resorts to the lash which nowadays surprise by their infrequency. Mr. Justice A. T. Lawrence passed twelve sentences of whipping; Mr. Justice Bray contented himself with two. The few judges who flog (there are not, I believe, half a dozen left on the bench) have grown a little fidgety over their performances—seem willing, even somewhat anxious, to explain them. Mr. Justice Lawrence is reported to have said that he “would show leniency to men convicted of robbery with violence only if the persons who had themselves been attacked were to come and plead for them.” This is a proposal that refers us to Anglo-Saxon days, when justice was the crudest compromise betwixt violator and victim. The King’s officer, scarcely as yet a judge, sitting in a shed to promulgate decrees that he might or might not be able to enforce, said to the offended party: “Now, suppose you let me chop this man’s hand off. Will that satisfy you?” But in a season of regulated law—the law having due power behind it—what have judge and prosecutor to do with one another? One man, A, suffering injury, is for mercy; another, B, is for vengeance. The judge,

standing for the State and the community, has no concern with A or B.

The Press had a revel over the Cardiff floggings. We were told, now is the time for a "wholesome application of the lash" to other offenders. There is the burglar, there is the house-breaker; let us flog the burglar and the house-breaker. In support of this demand, the history of the cat-o'-nine-tails—which is the history of its universal failure as a punishment—was, as usual, either quashed, forged, or falsified. The mischief was played with statistics that are open to every one; and the judges by whom flogging was most particularly contemned (chiefly, of course, the late Mr. Justice Hawkins) were cited as its principal defenders.

I sometimes wonder why the advocates of this penalty, which, they assure us, is salutary or nothing, abstain so carefully from describing its infliction. If it is proper that certain persons in the community should be whipped up to the limits of endurance, it cannot be altogether improper that the rest of us should know what the chastisement is like.

I notice, however, that it is invariably left for the opponents of the "wholesome application" to state its real effects: the quailing of the heart under each successive stroke (as the pulse of the victim will plainly declare), the changing of the skin from white to a crimson blotch and from crimson to blackish purple, the shriek that, as the strength ebbs, dies into "deep, rhythmic sobs." "Take the vision away," cried Sir Robert Rawlinson at the close of a memorable description of floggings he had witnessed, "it is too hideous even to remember!"

I shall not follow this too far, but it is no subject to be shirked, as the friends of flogging invariably do



shirk it. There are things which nations should refuse to forget, and among these things are the evils they have done of old. How are the earlier and later records of our navy and army stained by the bloody lashes of the cat-o'-nine-tails! Has any reader ever chanced on an account of a flogging round the fleet? The man, lashed to the triangles, was rowed from ship to ship; at each ship a boatswain's mate descended with his "cat" and laid it on afresh; and when the punishment was over the scarred and blood-smeared back was swollen out like a bolster.

Is it forgotten that soldiers in the British Army could be sentenced to 1000 lashes? Such a sentence (to cite but one) was passed by court-martial on a trooper at Canterbury in 1812. Seven hundred and fifty lashes were actually inflicted. Leigh Hunt, who took up the case in the *Examiner*, was prosecuted for libel, and Henry Brougham defended him.

No sufferer under the lash has ever given a more remarkable account of his feelings than A. Somerville in his "Autobiography of a Working Man." In May, 1832, Somerville, a trooper in the Scots Greys, was tried by court-martial "for highly unsoldier-like conduct on the morning of the 28th inst., in dismounting without leave when taking his lessons in the riding-school, and absolutely refusing to remount his horse when ordered to do so." The simple fact was, the man's horse had got out of hand and he could do nothing with it. He was sentenced to receive 200 lashes, "in the usual manner of the regiment," and took 100 without a sound before the officer in command gave the word to cast him loose.

Minute by minute, almost, he details his pains under the whip, of which the knots—five or six to each cord—were "compressed and hardened into sharp

edges till each had acquired the consistency of horn." After some thirty cuts—

"The pain in my lungs was now more severe, I thought, than on my back. I felt as if I would burst in the internal parts of my body. I detected myself once giving something like a groan, and to prevent its occurrence again I put my tongue between my teeth, held it there, and bit it almost in two pieces. What with the blood from my tongue and my lips, which I had also bitten, and the blood from my lungs or some other internal part ruptured by the writhing agony, I was almost choked and became black in the face. It now became Simpson's second turn to give me twenty-five. Only fifty had been inflicted, and the time since they began was like a long period of life; I felt as if I had lived all the time of my real life in pain and torture, and that the time when existence had pleasure in it was a dream, long, long gone by."

Yet Cooper, in his "History of the Rod," tells us that "one lash in the navy was considered the equivalent in severity to several in the army; and although the lashes were numbered by dozens instead of by hundreds, twelve stripes afloat were fully equal to a hundred on shore."

To pass from the army and the navy, are examples wanted from our old penal inferno, Botany Bay? They can be had in nauseating plenty, but a single instance shall suffice. A convict seized in trying to escape was generally ordered 100 lashes—and the "cats" in those days were of the heaviest pattern and occasionally tipped with lead. A certain William Day, still living, I believe, after telling us in his

“ Old Convict Days ” how he himself was flayed in this manner, goes on to the case of a fellow-prisoner who was brought up for punishment with a wound in his throat, the result of an attempt at suicide.

“ He was utterly unable to stand to be strapped in position, so . . . the triangles were lowered and again hoisted when the victim had been securely fastened. . . . As the blows fell the blood actually bubbled and frothed from the wounded throat.”

These hideous scenes will never be renewed, but we have not done with flogging. It can be ordered by a judge, and is retained in prison—to what extent shall presently be shown. It is the one legalised form of torture that remains to us. Is the word “ torture ” objected to ? I submit that the “ cat ” is not less an instrument of torture than the thumb-screw. The birch may very well be added—I mean the real prison article.

To the cheap sneer at “ the kind of discipline schoolboys are subjected to ” no attention need be given. It is the most mendacious nonsense. I have seen and handled both “ cat ” and birch, and speak by the card. Flogging in prison, the reader may rest assured, is always flogging. The warder, who receives a gratuity for the job, is not paid to tickle his victims !

The floggings of former days were monstrous, but—when not intended to kill or maim for life—they were also supremely silly. Acute suffering endures only up to a certain point. What a loathsome waste of effort to lay 150 strokes (1350 stripes) on a man’s back ! During more than two-thirds of the punishment you were mangling a creature who had passed through all that can be known of human agony into all but complete insensibility. The capacity of

pain varies very widely ; but, in general, I believe (and prison doctors have told me) that after twenty strokes or so the sting of the lash begins to lose its venom. It is probable that the man who has had twenty-five or thirty has reached the acme of physical torment. The back is invariably scored for life.

As for "the kind of discipline schoolboys are subjected to," Oscar Wilde, imprisoned at Reading, compared the howls of a prisoner who was merely being birched with those of "some animal like a bull or a cow that was being unskilfully slaughtered." Warders, indeed, have assured me that between "cat" and birch there is very little to choose. Like the "cat," the birch (which is so treated that every separate twig is like a fine wire rod, with excrescent buds) leaves its trace for life. We may dismiss, then, as trivial the occasional innuendo that flogging is no longer what it was. Flogging is always flogging.

Some people will exclaim, "So much the better!" The worse the punishment the more willingly will they mete it out to certain classes of offenders. It may be questioned whether a more debasing penalty than flogging has ever been invented. I care not how degraded is the wretch whom you tie up ; he is a degree lower in the human scale when you have cast him loose from the triangles. "You make a perfect devil of the man you flog," said Mr. Justice Hawkins.

Flagellation has, in the long run, an evil and hardening effect upon all who assist at and witness it. I myself have been told, concerning a prison flagellator, that he "takes an artistic interest in his floggings."<sup>1</sup> But this does not suffice for everybody.

<sup>1</sup> "It is far from an agreeable task to watch the face and figure of the flogger as he executes the sentence ; and few would deny that the moral effect upon *him* must be as great as upon the criminal

There is a savage in us that rises to the notion of flogging, welcomes it, and takes a definite pleasure in it. "Strap the brute up and let him have it!" is a fairly common sentiment. Argue the point, and you will get a rejoinder like this: "Oh! but it's such a grand deterrent. Think of what it did for garotting!" H'm! Are we there again?

I take up this argument with alacrity. A more fallacious, a more mischievous one was never published.

First, let us return to Cardiff. When a judge (always, we are assured, the most humane and kind-hearted gentleman on the bench) begins to lay about him with the "cat," many writers on the Press, and many letter-writers to the Press, are tremendously excited, and splendid results are predicted. Never in any circumstances are these results achieved, but

whom it is his duty to whip" (L. O. Pike: "History of Crime in England").

A young medical friend of my own, dead some years, H. F. —, held for a while the post of chief medical officer in a large prison at the Cape. He told me of the nervous horror and sense of physical sickness with which he witnessed his first case of corporal punishment. To the chief warder, who presided, the whole ceremony seemed a kind of pick-me-up; and he repeatedly shouted to the executioner, "Lay it on well! Let him have it!" My friend admitted that in the course of time he himself became used to the spectacle.

Major Arthur Griffiths, in "Fifty Years of Public Service," mentions a flogger, "B," whom he had often seen at work in the old convict prison at Chatham. "He had been a boatswain's mate in the Royal Navy, where he had learned to flog, and the prison authorities willingly utilised his skill in handling the 'cat.' 'B.' was a short, squat, thick-set man, with the rolling gait of a sailor, and immense physical strength, which, added to his skill, made a very loathsome exhibition of the wretched culprits who were tied up."

Michael Davitt, giving evidence before the Asquith Committee, said that at Portland he once occupied a cell near the punishment cells, and had frequently heard the flogger boast "how he had made his victims howl!"

this matters nothing. Numbers of people go on talking and writing as if the splendid results were there in facts and figures indisputable. Two years after Mr. Justice Lawrence had been giving the garotters of Cardiff several dozens of his best, an intelligent London magistrate, Mr. Plowden, of Marylebone, interviewed by a representative of one of the most widely read papers in the kingdom, fetched up Cardiff and Mr. Justice Lawrence as the newest instance of the wholesome power of the lash. "Only a year or two ago," said he, "there was an outbreak of crimes of violence in one particular district of Wales, and the judges (one of whom was Mr. Justice Lawrence) passed several sentences of flogging, with the result that an absolute stop was put to the outbreak."

Charming—if the facts would but harmonise! Mr. Plowden, however, had neglected to follow up the case. It was at the spring Assizes that Mr. Justice Lawrence was so busy with the "eat." The summer Assizes came duly round, and eighteen garotters took their station in the dock. Spring and summer, and then the winter Assizes: sixteen garotters to the fore. "The desired result," said a Welsh paper, "does not seem to have been produced." Let the curtain fall on Cardiff;<sup>1</sup> though we may be pretty sure that the history of Mr. Justice Lawrence's "triumph with the 'eat'" will once and again be fetched up—and that Mr. Plowden will be cited as a witness.

These fugitive false histories of what the "eat" has done and can do and will do revolve in cycles through the newspaper Press. When one of them

<sup>1</sup> With this example Mr. Henry S. Salt deals fully in "The Case against Corporal Punishment."



has served its temporary turn, another and an older is substituted; and when both have perished beyond hope of recovery they are both restored to life; till judges with a taste for flogging may reasonably urge that it is better to have flogged and failed than never to have flogged at all. Consider the record of Mr. Justice Day at Liverpool, which had a wider celebrity than Mr. Justice Lawrence's at Cardiff, and is even now in some sort efficacious.<sup>1</sup> During the eleven years from 1883 to 1893 Mr. Justice Day was the boldest exponent of the flogging system in all England. "At Liverpool,<sup>2</sup> where flogging was largely resorted to, the crimes of violence did not decrease, but actually increased, in despite of terrible long sentences of imprisonment and double and treble doses of the lash. The men who were flogged came up again for a precisely similar offence, and were sentenced to flogging a second time." This was when Day touched his meridian as the flogging judge. He started at Liverpool in 1883, when there were fifty-nine cases of robbery with violence. He finished there in 1893, *when there were seventy-nine cases*. At the close of 1893, "Judgment" Day had laid on 1961 stripes—and the garotters of Liverpool were going stronger than ever. None the less, many writers, rehearsing the memory of Mr. Justice Day, are still upholding him as the most successful flogger of his time!

<sup>1</sup> In the reminiscences of "Thormanby," for instance, an entertaining volume ("The Spice of Life") that I chanced to be reviewing while this chapter was in hand, the writer quotes with a chuckle one of Day's inimitable flogging sentences at Liverpool ("As an additional punishment, you will each be flogged three times during your term of imprisonment," etc.), and adds: "The stern and wholesome severity of Mr. Justice Day stamped out that gang of ruffians at once."

<sup>2</sup> "Facts about Flogging," by Joseph Collinson.

Take next what was known as the "Scuttling Epidemic" in Manchester. This was in 1866, and the judge upon the scene was Mr. Justice Lush, whom Mr. Justice Day may have taken for his fugleman. Eight years later, in 1874, Mr. Justice Lush, having occasion to make a formal report to the Home Secretary, let off this *feu de joie* :—

"When I first went to Manchester in the spring of 1866 there was a general feeling of alarm at the prevalence of garotting. It had increased notwithstanding that heavy sentences of penal servitude had been awarded at the previous Assizes. I flogged every one; as many, I think, as twenty or twenty-one. I went again in the summer of the same year, and had to administer the same punishment to about half the number. I have been there five times since, and have, I believe, only had one such case, and that was three or four years since."

Now this looks as though Mr. Justice Lush had really done it! But the eight years had wiped the facts from his memory, and in every particular he was wrong. The criticism on the judge's statement to the Home Secretary is from the pen of Mr. E. H. Pickersgill, M.P., in an article in the *Law Times*.<sup>1</sup>

"Fortunately," says Mr. Pickersgill, "we have statistics by which we can test the accuracy of his Lordship's memory in recalling events which had happened eight years before. First, the learned judge did not flog twenty or twenty-one persons at the Manchester spring Assizes, 1866, unless he broke the law, for there were only thirteen persons

<sup>1</sup> February 2nd, 1895.

liable to such punishment, and of these he flogged twelve. Secondly, the number of such charges had not increased, for at the winter Assizes, 1865, there were nineteen convictions, whereas at the spring Assizes, 1866, there were, as I have said, only thirteen. Thirdly, his Lordship's drastic proceedings were not crowned with success, for at the summer Assizes the number of convictions was still thirteen, and at the following winter Assizes the number rose to fifteen. What was the condition of the Calendar on the occasion of later visits of the learned judge to Manchester is entirely irrelevant, for, apart from the consideration that there are fashions in crime, the claim is that flogging produces an immediate effect. I may clench this case," adds Mr. Pickersgill, "by quoting the observations made by the late Mr. Justice Keating in his report to the Home Secretary in 1874: 'Some years since a brother judge at the Leeds Assizes ordered flogging in every case. I went to Leeds at the next Assizes and found the number of cases considerably larger.'"

But the classic illustration is still to offer. In London the year 1862 was marked by a sudden and quite alarming outbreak of garotte robberies. During some twenty-five years there had been practically no flogging in England for criminal offences. Did crimes of violence increase in this period? Not in the least. "There was a marked improvement. Violence diminished, disorder diminished, vice diminished, and crime diminished."

Then, in an hour unforeseen, from the sties and kennels of the town the garotter came, and London was seized with panic. We must in this affair be very

strict on the point of dates, and it is important to note that this epidemic (the epidemic, I repeat, not the scare) lasted just four months. Beginning in July, 1862, it was over in November. At the November Sessions of the Central Criminal Court, twenty-seven persons were indicted for this crime; twenty-one were convicted and received exemplary sentences, not of flogging, but of imprisonment. Meanwhile, police in plain clothes were put on duty in the streets, and detectives, I believe, were instructed to call upon all ticket-of-leave men known to be in London, with the friendly tip that if garotting did not cease they would sup sorrow. This I do not give for gospel, but the epidemic subsided. At the December Sessions twenty-two persons were charged with street robberies, "some (as the Common Serjeant informed the grand jury) being accompanied with personal violence." At the January Sessions, 1863, according to the report in *The Times*, "the Calendar showed very few offences of this class"; and at the Sessions in March the Recorder of London (Mr. Russell Gurney) thus referred to the subject in charging the grand jury: "I am very glad to say that there is an absence of those peculiar charges of robbery with violence of which there was a large number towards the end of last year, and which have been gradually decreasing during the last two or three months."<sup>1</sup>

The crime, in a word, had been put down by the vigilance of the police and the due administration of the law. It was the ordinary law, with its ordinary punishments. But long after the practical disappearance of the epidemic of garotting—namely, on

<sup>1</sup> *The Times*, March 3rd, 1863.

February 26th, 1863—a member of Parliament, who not only had no official responsibility but who did not even represent a London constituency, introduced a Flogging Bill (the “Security from Violence Bill” was its title) into the House of Commons. Why was this? It was that a member of the House, Mr. Pilkington, had been assaulted and robbed in St. James’s Park. The Bill (to empower judges to add a sentence of flogging to one of imprisonment or penal servitude) was based on no statistics; it was backed by no argument. An angry and intimidated House wanted neither argument nor statistics. Vainly did the Home Secretary, stating the proven facts of the case, oppose this measure. Hurried from stage to stage, the Bill was passed into law on July 13th, 1863. From that day to the present the public has been diligently hocused into the belief that this was the Act which garotted the garotter.

For the cold, parliamentary truth of the matter we had to wait twenty-seven years. In 1900, Mr. J. Lloyd Wharton, at whose hands better things had been deserved, introduced a Flogging Bill, which a final vote of the House smashed to pieces (for, 75; against, 197). Two Home Secretaries—a Liberal and a Conservative—spoke on it; attempting once for all to settle the delusion that flogging had killed garotting.

Mr. Asquith (Home Secretary, 1892–5):—

“As to garotting, that crime had been brought to an end as a serious danger *before* the House, in a fit of panic, due to one of its own members having been garotted, resorted to legislation. Garotting was put down, *without resort to the lash*, by a fearless administration of the existing criminal law.”

The late Lord Ridley (Home Secretary, 1895-1900):—

“Reference has been made to the Garotting Act. He agreed with the history of that Act, at all events as far as London was concerned, given by the right hon. gentleman opposite (Mr. Asquith), and that the rapid and severe action which put down garotting took place *before* the passing of the Act of 1863.”

Briefly, the one and only real epidemic of garotte that London has experienced was a terror of the past many months before the achievement of the measure that has ever since been paraded as its cure. But prejudice on this subject is now chronic and inveterate. For fifty years the legend of the garotter cowed and quelled by the “cat” has lied so volubly that the truth has grown a fool to it.

It is not even by any means universally the fact that the violent man dreads the violent retaliation. Griffiths cites the case of a prisoner flogged in the early days of Wormwood Scrubs: “When he was taken down from the triangles, after he had endured it all without a sign or a groan, he turned to us and said coolly: ‘Now I’ll fight the best man among you!’” Of a piece with this is a story I had from one of Major Griffiths’s successors in the office of Governor at the same prison. “Done quite a good mornin’s work, sonny, ain’t you!” said the prisoner to the warder who had just finished flogging him. “Now go an’ get yer b——y ’air cut!” Yet another that was passed to me by the doctor, waiting in his study the summons to his first round of the evening. “We had quite an uncommon turn here one morning last month: three men to flog. A week or so after-



wards I put the question to each of them—‘What would you take, money down, to repeat the dose?’ No. I said he wouldn’t be tied up again for a fortune. No. II was prepared to take it for a ‘fiver.’ No. III said, ‘Well, I dunno, doctor, but I fancy I’d see it through agen for a sovereign down.’” Mr. Basil Thomson, in his admirable “Story of Dartmoor Prison,” mentions a prisoner of war who said, “Hard or soft, I’ll take a dozen for a shilling any time.”

But we have cases more directly to the purpose from the criminal courts. “I have myself tried more than one prisoner for offences of that description (garotting), who had been flogged and imprisoned by other judges,” wrote Mr. Justice Denman in 1874. “The poor wretches who undergo it (flogging) are not improved, are not deterred,” said Mr. C. H. Hopwood, K.C., in a public address. Ned Wright, the Hoxton burglar, came six times under the “cat.” The old burglar “Archie,” whose story Mr. Charles Morley has so graphically told, mounting in his later years into the service of the Salvation Army (its representative at the prison gate), carried a visiting-card with the record of his eight sentences of flogging.

Mr. Collinson says :—

“It will be remembered by many readers that a man named Hackett, on being sentenced, a few years ago, to seven years’ imprisonment, shouted at the top of his voice, ‘Oh, my Lord, flog me!’ and he left the dock shouting, ‘My God! seven years!’ This man had been flogged before.”

The *Morning Leader* gives the case of a convicted prisoner who, at Birmingham, “handed a written request to the Recorder, that instead of a long sentence he would give him a short sentence and the ‘cat.’”

The *Manchester Dispatch* reports the trial of one Arthur Mannell :—

“The Prisoner : I ask your Lordship, in preference to a long term of imprisonment, which only hardens a man’s heart, to give me a short sentence and a flogging.”

The *Yorkshire Daily Observer* comments on the case of Richard Bracewell, a carpenter, convicted of stealing :—

“His Lordship said that unfortunately any punishment he might mete out to the prisoner would practically fall upon his wife and family. He only wished he could order a flogging.

“The Prisoner : I would willingly take that, your Lordship, if I might have my liberty.”

And this from the *Daily News* :—

“At Newington Sessions, before Mr. McConnell, K.C., Reuben Vaughan, 24, pleaded guilty to obtaining by false pretences a watch and other articles, value £18, etc. Mr. McConnell : ‘In 1894 you had the advantage of being birched, in 1895 you were sent to reformatory, in 1899 you got to the Old Bailey for forgery, in 1901 you had a sentence of twelve months for stealing a bicycle, and then you were sentenced at Maidstone to two years.’ The Prisoner : ‘Will your Lordship order me the cat-o’-nine tails ? That would be better than sending me back to prison for a long time.’ Mr. McConnell : ‘I dare say it would be better, but I have no power.’ The prisoner was sentenced to eighteen months’ hard labour.”

It is of the nature of an axiom that penalties casually and indiscriminately applied are seldom in any sense deterrent ! Now the garotter knows well that he has a first-rate chance of escaping the punishment of the lash. Prison he will doubtless get ; but, to quote a caustic pen in the *Nation* :—

“ It is only if a particularly humane and careful judge arrives on the scene that his back will be reduced to pulp. What might be gained by a bad form of punishment is lost by its random administration.”

In a debate in the House of Commons in July, 1885 (on which occasion, by the way, the House declined to sanction flogging even in reference to cases against women and children), the point was finely argued by Sir Farrer—afterwards Lord Chancellor—Herschell :—

“ He strongly objected to the punishment of flogging for two reasons. The first was that it was, perhaps above all other punishments, an unequal punishment. They inflicted the same number of strokes upon two men, and the chances were that the man who deserved to feel the punishment most felt it by far the least. It was an extremely unequal punishment. And in the next place it was of all punishments the most uncertain. They had to leave the punishment, as they must leave it, to the discretion of the judge. There were some judges who would always flog, there were some judges who would never flog. Whether the punishment was inflicted or not depended, not on the gravity of the offence, but upon the particular judge who might chance to go that particular circuit. . . . If hon. members would read the return

to which he alluded (the return which showed that garotting had been put down before the Flogging Act was passed) they would find that if a judge went Assize and flogged a number of men for a particular offence the number of such offences at the next Assize did not diminish. If they could prove anything from it it would be this—that a flogging judge was followed by a number of garrotting cases and a non-flogging judge by a great diminution of that crime.”

In the debate on the Wharton Bill in March, 1900, Mr. Asquith said :—

“ I believe the majority of the English Bench, at present comprising some of the ablest and most experienced of our judges, have never in their lives awarded the sentence of the lash. As to reformation, has anyone ever yet been reformed by the punishment of the lash ? I have never yet been able to discover any such evidence. Is it the wisest course for weaning men from brutality to commence the course of punishment by treatment which involves moral humiliation and physical torture ? . . . As to the deterrent effect of flogging, it is impossible to look upon a punishment as really deterrent if the question whether it will be inflicted in any particular case is no more a certainty than a chance in a lottery. The majority of the judges never award this punishment at all.”

And now, finally, how stands the case with regard to prison ? A few years ago there were many trifling breaches of the rules that rendered an adult male prisoner liable to the fiery ordeal of “ cat ” or birch. In a fit of temper he might tear up his slop jacket,

pitch his wooden stool at the window of his cell, swear at a teasing officer, throw down his tools in the workshop, break into ribaldry in chapel, or question the legitimacy of the chief warder's birth. For any silly or pettish or unbecoming action that the powers chose to regard as "gross misconduct or insubordination requiring to be suppressed by extraordinary means,"<sup>1</sup> the prisoner might be introduced to the visiting justices, who would almost certainly introduce him to the scourger. Were this the beginning of the chapter, I should seek to show in detail that the flogging of prisoners has been as ineffectual as the flogging of garotters: that, during the great days of the "cat" in the older convict prisons, discipline was at its lowest, the general sense of disaffection at its highest. A chronicle of the period running—at the roughest computation—from the 'sixties to the later 'seventies would show the prison flogger always pretty busy, and the prison governor never very certain of the temper of his flock. "Although penalties for misconduct were very severe at the time," says Dr. Quinton, gathering up his memories of Portsmouth Convict Prison in 1876, "they had apparently but little deterrent effect."

An Act of 1898 limited flogging in prisons to two offences: mutiny or an attempt at mutiny, and an assault on an officer. Four years after the passing of this Act, certain visiting justices, chafing under its limitations, asked the Prison Commissioners for a little more whipping. The Commissioners took stock of four years' infringements of the rules. They found, possibly to their own surprise, that whereas the offences not punishable with flogging had decreased,

<sup>1</sup> Du Cane.

there was a noticeable rise in those for which the "cat" could be prescribed!

On flogging as a punishment, the first and the last word is: Failure. History vouchsafes no other answer. The attempt to correct crime with crime has everywhere repaid us in the properly disastrous way. Example offers (and fairly overwhelms us) wherever flogging has been tried: in the army, in the navy, in the old and the new prisons. The most indecent penalty retained upon the books is also the most sterile in returns.<sup>1</sup>

<sup>1</sup> A writer in the *Law Times* (April 11th, 1908) observes: "It is not, perhaps, generally known that the barbarous and degrading punishment of the lash is wholly abolished in Scotland. Mr. H. D. Greene, K.C., speaking in the House of Commons on the 28th March, 1900, thus accounted for its abolition in Scotland. We quote from Hansard: 'The unfortunate Paddy in Dublin and the unfortunate wretch in Whitechapel may be whipped, but the man in Scotland is to go free. What is the reason? Because the Scotch will not tolerate a law of this kind. In an Act, passed in 1862, to amend the law with regard to the whipping of juvenile offenders, a clause was introduced that no one should be whipped in Scotland for offences against person or property, and the Scotch have enjoyed a complete immunity against whipping ever since. Can any one contend that there has been an increase of crime in Scotland because of that provision?'"

But is the surmise correct as to the "unfortunate Paddy in Dublin"? Whatever the law may be, there is not, I fancy, any flogging in Irish prisons. Neither in Kilmainham nor in Mountjoy could any officer recall a case for me.



## CHAPTER XVI

### ON THE INEQUALITY OF SENTENCES

A FATEFUL spot is the foot of the stairs leading to the Old Bailey dock. On certain days certain prisoners stand there waiting to go up for sentence. Some few men have pleaded guilty. What judge has tried the cases ?

This, a first offender may persuade himself, is not a question of much moment. The law is the law, and by the law the judge must regulate his sentence. Of course this is true, but the old offender knows rather more than the first offender. He knows, for instance, that, let the law be what it may, the paying of it out depends a good deal upon the judge.

One by one the victims come down from the dock ; and now they are men not only convicted but condemned : they have got their gruel. It is soon learned that the doses are pretty stiff this morning. “ ‘ The judge ain’t on very good terms with his missus this morning,’ said the man standing next to me on my right. ‘ It’s all a bit of luck is this weighing-off business. If that judge ’ad ’a ’appened ter’ve been married yesterday instead of fallin’ out wi’ his Old Dutch this mornin’, that chap as ’as just come down would ’a oney got six months instead o’ three year.’ ”<sup>1</sup>

Herbert Spencer puts it in another way :—

“ The lengths of penal sentences are fixed in a manner that is wholly empirical. Within the

<sup>1</sup> Frederick Martin : “ A Holiday in Gaol.”

limits assigned by Acts of Parliament, the judge exercises his discretion, and in deciding on the time over which the restraint shall extend he is swayed partly by the special quality of the offence, partly by the circumstances under which it was committed, partly by the prisoner's behaviour and appearance, partly by the character given to him. And the conclusion he arrives at after consideration of these data depends very much on his individual nature—his moral bias and his theories of human conduct. Thus the mode of fixing the lengths of sentences is, from beginning to end, little else than guessing.”<sup>1</sup>

Thus the philosopher and thus the old offender—the first seeing it shrewdly in his study, the second discussing it at the bottom of the dock stairs—on the question of the inequality of sentences.

What Herbert Spencer says about the empirical fixing of sentences is not to be gainsaid. Unfortunately, the empirical method is the one we are at present bound to, since we have not a single positive principle for the awarding of punishments. For such-and-such an offence the law prescribes a maximum penalty, and so long as the judge confines himself within the limits laid down for him, he is practically allowed to exercise his own discretion—and some judges have no discretion to exercise.

In the books that should be lights on the path there is scarcely any guidance. “Even in the most accurate and useful books of practice,” says Lord Brampton (Mr. Justice Hawkins, who in his day was, perhaps, the most open-eyed and certainly the least

<sup>1</sup> *British Quarterly Review*, July, 1860.

sentimental judge upon the bench), "to which all look for guidance and assistance during every stage of the criminal proceedings, down to the conviction of the offender, no serious attempt has been made to deal, even in the most general way, with the mode in which the appropriate sentence should be arrived at." What wonder that, under such a state of things, "the most glaring irregularities, diversity and variety of sentences, are daily brought to our notice, the same offence committed under similar circumstances being visited by one judge with a long term of penal servitude, by another with simple imprisonment, with nothing appreciable to account for the difference?" If one judge regards prevention as the primary purpose of punishment, another retribution, and a third reformation, each of the three will pass a different sentence for an offence of the same kind.

This is a real evil. The man who is punished with undue severity neither forgets nor forgives. He bears a grudge against justice and against society, and on such a man a long sentence of penal servitude is likely to have a very bad effect. Moreover, long sentences of penal servitude are costly to the State; the sins of the criminal are visited upon the taxpayer whenever the penalty exacted is greatly in excess of the offence. On the other hand, when the judge errs on the side of lenity, society is endangered by the untimely release of the thief whose hand is still in. Looked at from any point of view, it is a grave question.

There are many judges who contend that the previous record of a prisoner "should be the most important factor in deciding on his sentence." This was not the view of Lord Brampton, who has told

us in his "Reminiscences" the course he always adopted in practice :—

"My first care was never to pass any sentence inconsistent with any other sentence passed under similar circumstances for another though similar offence. Then I proceeded to fix in my own mind what ought to be the outside sentence that should be awarded for that particular offence had it stood alone ; and from that I deducted every circumstance of mitigation, provocation, etc., the balance representing the sentence I finally awarded, confining it purely to the actual guilt of the prisoner."

Against this practice (which does not guarantee an always equitable award) may be set that of the cumulative sentence. A prisoner arraigned on several counts, and found guilty on two or more, is liable to be punished for each of these offences. One judge views the matter this way, another views it that way : to the prisoner standing in the dock for sentence the judge's own opinion of the affair makes all the difference. The counts may be lumped together, so to say, and regarded as one offence ; and the prisoner sentenced accordingly. It comes, of course, to the same thing when the judge, giving a sentence on each count, orders the sentences to run concurrently ; and this is a humane and generally a just and common-sense method of procedure. Very different is the fate of the prisoner whose sentences on the various counts are directed to run consecutively. In this event a man may receive far heavier punishment than is involved in what is called a "life" sentence. Discussing a case tried by Mr. Justice Stephen (presumably at about the time of the judge's retirement), when the failure of his

wits was a matter of common knowledge at the Bar, a writer in a quarterly periodical says :—

“ There were several counts on the indictment. The maximum punishment for the offence with which the man was charged was fourteen years’ penal servitude. He was found guilty on each count of the indictment, and the judge inflicted sentences to run consecutively, the whole totalling up to twenty-nine years. According to the rules in regard to remission, the man so sentenced must complete twenty-one and three-quarter years before being eligible for discharge on a seven and three-quarter years’ ticket-of-leave. Now, had this man been sentenced to penal servitude for life—a term no single count in the indictment justified—he would be released at the end of twenty years on a five years’ ticket-of-leave. Had he, on the other hand, been tried before a common-sense judge, or a pedantic judge whose pedantry was tempered by humane feelings, he would have received at most a sentence of fourteen years, and have been released at the end of ten and a half years’ actual imprisonment.”

It is difficult to imagine an offence which would call for twenty-nine years’ privation of liberty in a convict prison (to say nothing of the money to be disbursed by the State for the prisoner). Whittaker Wright, arraigned on twenty-six counts, was found guilty on twenty-four. For most of the offences the maximum penalty was seven years ; and Mr. Justice Bigham, following the example of Mr. Justice Stephen, might have passed a sentence of considerably over one hundred years’ penal servitude. The sentence he gave was seven years.

Mr. Montague Crackanthorpe, K.C., reviewing the

whole subject in the *Nineteenth Century*,<sup>1</sup> brings forward some signal and shocking examples of an older day :—

“A was sent to penal servitude for his first offence (embezzlement). Sixteen years after he was liberated he was convicted of stealing some candles, and was sentenced to seven years’ imprisonment and seven years’ police supervision.

“B had been committed to a local gaol for two minor offences. He was afterwards convicted of stealing money, and sentenced to seven years’ penal servitude followed by seven years’ police supervision. He was again convicted for stealing 3s., and sentenced to another seven years’ imprisonment followed by a further seven years’ supervision.

“C had been four times committed to gaol for minor offences. He was afterwards convicted of stealing a garden fork, and was sentenced to ten years’ imprisonment and five years’ supervision.

“D, having had sixteen minor convictions, was convicted of stealing a hamper of potatoes, and was sentenced to seven years’ imprisonment and seven years’ supervision. He was afterwards convicted of stealing some watereress and shellfish, and was sentenced to eight years’ imprisonment and seven years’ supervision.

“E, after five petty committals to gaol, was sentenced, for stealing 6s., to seven years’ imprisonment. The same year in which he was liberated he stole a pair of boots, and had a sentence of ten years’ imprisonment and seven years’ supervision.”

<sup>1</sup> January, 1900.



By such means have we striven to make criminals. Mr. Crackanthorpe thinks it is "not at all probable that any judge of the High Court or any recorder or chairman of quarter sessions now living would inflict such grotesquely cruel punishments as these"; but we still have gentlemen on the bench, in this capacity or that, against whose judgment every criminal would pray to be defended. At Middlesex Sessions the hand of Sir Ralph Littler was pretty heavy. In eighteen years his sentences reached the total of five hundred and seventy-two years of penal servitude !

In prison, the flagrant and freakish inequality of judicial punishments are a fruitful theme of talk. "In this connection," says Jabez Balfour, "I aver that the people who are best acquainted with the working of the criminal law—the governors and officers of prisons—are the most sceptical as to the boasted merits of English justice." He tables the five most aberrant cases in his own experience :—

NAME.	CRIME.	SENTENCE.
K . .	Killing wife . .	Life.
S . .	" . .	Three years.
H . .	Killing girl . .	Three years.
P . .	Embezzlement (£72) .	Ten years.
Q . .	" (£4000) .	Three years.

"S," says Mr. Balfour, "shot his wife because she objected to his spending the best part of his time and his money at various local clubs, and took the highly feminine step of following him to those establishments and urging him to return to his home. This was apparently so heinous a proceeding, that when he shot her dead in a fit of temper, the learned and eminent judge who sentenced him dwelt on

the abominable nature of the provocation, and inflicted the minimum sentence of three years' penal servitude.

"In the other case . . . K had shot his wife, as he himself stated, through jealousy, and had then attempted suicide. A very different judge presided over this trial, a judge who was generally reputed a weak man, and who was therefore addicted to strong measures. He passed a sentence of death, which was afterwards commuted to penal servitude for life."

Cases not less eccentric are produced by Lord William Nevill, who observes that "the whole system of remission must be to a great extent farcical, so long as the judges take such extraordinarily different views in passing sentences. Monstrous as it may seem, it is the plain truth that in one part of England a crime is punished by a short term of imprisonment in a local gaol, whilst in another part of England the same crime is punished by a long term of penal servitude.<sup>1</sup> Even in the courts in London, where some sort of uniformity might surely be arranged, the most astounding inequalities prevail. . . . There were two solicitors at Parkhurst during my time, both of whom had been condemned for almost exactly similar crimes. Each had made away with the property of clients, and each, when detected, had attempted to take his own life and that of his wife. These two men were tried by two different judges, and one received a sentence of five years' penal servitude, the other a sentence of ten years."

<sup>1</sup> Lord William Nevill's "Penal Servitude" was published in 1903. Mr. Montague Crackanthorpe, in the *Nineteenth Century* essay which appeared three years earlier, says: "Our sole concern is that punishment should be on a uniform scale—that is to say, that similar punishments should be awarded for similar crimes in different parts of the country."

It was subsequently proved concerning the more heavily punished of the pair that he was scarcely responsible for his actions.

Lord William Nevill continues :—

“ Here is a still more bewildering instance of judicial caprice as regards sentences. Two men were brought before Mr. Justice Phillimore to be tried for bigamy. There was nothing remarkable in either case, both being just about equal in point of criminality. But one man had gone through the form of re-marriage in church, and the other at a registrar’s office. On account of this difference alone the former was sentenced to five years’ penal servitude, while the latter was let off without any punishment at all, being merely ordered to be detained during the sitting of the court. Mr. Justice Phillimore made no disguise of his bias in this case. He openly avowed that, being a strict Churchman himself, he did not consider a form of re-marriage before a registrar was any breach of the laws of God, and he therefore imposed only a nominal penalty. In the other case the crime had been committed in a church, and that was a breach both of the laws of God and of man, and must therefore be punished with the utmost severity. What sort of equality can there be before the law when judges have the power to exercise their discretion—or rather their personal prejudice—in such a fashion as that ? ”

Of the gluttony for punishment displayed by some at least of our judges, proofs could be extended till the reader tired of them. One example more—a rouser—shall satisfy us. I am indebted for it to Mr. Thomas Holmes, secretary of the Howard

Association, who for many years made the work of a police-court missionary something to be lauded of all men. The facer he delivered through the post to one of those lickerish subjects who are always itching to marry some illustrious mopsy of the courts was exemplary. In the volume entitled "Known to the Police" Mr. Holmes exhibits the inexplicable case of a youth named Taylor.

In January, 1906, there was a trumpery burglary at a small house in Coventry. Twenty-four farthings, one gold locket, one metal chain, and ten spoons were stolen. Taylor, twenty-two years of age, a carpenter and joiner, "with a good little business of his own," was charged with the crime and tried at Warwick Assizes before Mr. Justice Ridley. He had been detained in prison nearly eleven months. "Some of the articles were found in his possession, and it was proved that he had been spending farthings. That the people whose house had been entered did not suspect the prisoner was clear, as they sent for him next morning to repair the door that had been broken." Taylor "was not even suspected of connection with any professional criminals. It was, moreover, the first time he had been in the hands of the police." His decent family had lived in the town "for nearly three hundred years." The evidence seems not to have been of the clearest kind, but the jury, without leaving the box, gave a verdict of guilty. The judge said: "You have been convicted, and properly convicted; but I know the sort of man you are, from this case and from the fact that there is another charge against you in this calendar. Fourteen years' penal servitude!" It is unnecessary to go beyond Mr. Holmes's comment: "Fourteen years for a young man of twenty-two! Fourteen

years for a first offender ! It requires an effort to make oneself believe it, but it is a fact." Is this man still in prison ?

The author of the articles in *The Times*, treating very luminously of "The Sentence," says :—

" Good intentions and zeal for duty all our judges and justices possess. Their knowledge of law, their acumen, their sense of proportion in considering not only actual guilt but the degrees of guilt, are admittedly very great indeed. But how many of them, from the county J.P. to the judge, really know the inside edge, so to speak, of prison life and a prisoner's way of looking at it ? The agony such life may be, in the third division, to the first offender ; the comfort and relaxation and health restorative it often is for a short spell to the old hand. Then, worse still, take penal servitude. When a Judge of Assizes sentences a lad of eighteen to fifteen years for some violent outrage committed in a fit of drunken passion, an isolated act in a life otherwise respectable and decent—I speak of a case within my knowledge—does he really know what he is doing ? Has he been in and through Dartmoor and watched the faces of some of the juvenile adults there, and studied on the spot the effect of such sentences upon young lives which were meant, with all their capacity for brute passion, for freedom after punishment and the softening influences of mothers and home ? Or, on the other hand, when he puts away a recidivist, as he does often enough, for three or five years only, for a crime which has been repeated half a dozen times—say, housebreaking without violence—does his Lordship know what happens

when that man is loose again—how he goes back to the old haunts not only to do it all again, but to teach and encourage and incite the young to follow his example ? ”

On the two points emphasised in this paragraph I shall offer two suggestions. (1) Sufficing instances—relatively few though they be—have been adduced in support of the contention that ideal justice is not the universal aim of the bench of judges. I glance back at Herbert Spencer’s showing of the matter, and glance forward to the view offered by Dr. Maurice de Fleury in “*L’Âme Criminelle.*” Dr. de Fleury, putting himself in the shoes of a philosophic judge of the future, says :—

“ There is nothing to permit me to judge, and I am not qualified to allot punishment. I am here in order to put it out of the power of the wretched being before me to do harm ; it is for me to substitute my coolness and my serenity for the revengeful wrath of those whom he has injured, and to prevent them from taking justice into their own hands.”

(2) The question of the punishment of recidivists, the men who have passed again and again through prison, continues to this day to perplex every one who thinks about it, and is not disposed of in a facile sentence or two. The right standard of punishment, could we attain to it, would no doubt be a very surprising thing in its effects upon the criminal ; but, as matters stand, what in the long run do we gain by sending back to prison the man whom we have already spoiled there ?

For the caprices of justice in the higher courts Herbert Spencer could suggest no effective cure.



Lord Brampton, who in his later years had the subject ever anxiously before him, took counsel with the public on it in the *New Review*.<sup>1</sup> The inequalities of punishment, he urged, "would be materially lessened by the adoption of fixed principles, to be determined by a commission of competent persons having knowledge and aptitude for dealing with the subject." Twenty-three years earlier, in 1870, Lord Penzance (sometime a Baron of the Exchequer) had advised in the House of Lords that a standard of sentences might be obtained, if not by Act of Parliament or an Order in Council, "by agreement among the judges themselves." Lord Brampton's proposal, I believe, was talked of in high places, and rumour was busy with the appointment of a Commission. But no Commission was appointed. Were the judges invited? Did they shrink from the task?

The hint upon the "agreement among the judges themselves" is the one especially commended by Mr. Crackanthorpe. Discarding as impracticable the two first methods of Lord Penzance—the Act of Parliament and the Order in Council, he says :—

"Suppose each of these to be asked what are the average sentences he would pronounce, apart from special circumstances, on an adult male who had been convicted of those offences which most commonly recur, and who is not entitled to the benefit of the First Offenders' Act. Having thus got six average sentences, let the *average of those averages* be taken. Let the same process be gone through where there are one or more previous convictions, and let the average of the increase of sentence attributable to that fact be ascertained

<sup>1</sup> June, 1893.

in like manner. We should thus get a table of units forming an approximate scale of punishment which would be *prima facie* appropriate to certain named crimes wherever met with, and would prove of great assistance as a guide to all judges and magistrates throughout the length and breadth of the land."

If, insists Mr. Crackanthorpe in conclusion, some such suggestion be not enforced, if it be thought improper to put pressure on the judges, then must we resign ourselves to the situation, "for the defect will be beyond repair." Beyond repair it would seem that we are all agreed to consider it; for, so far as public opinion goes, the question sleeps as hard as ever.

Years ago Mr. Stead, having done penance as a "first-class misdemeanant" in Holloway, put before judges the propriety of condemning themselves to a stretch in prison. *The Times*, commenting on the possible necessity of amending the law, observes that "if the necessary knowledge is to be acquired by our courts, the august members thereof would have to take a holiday and at their country's expense visit and examine prisons, inside and out, and learn something of the curious morality and etiquette and customs of the 'professional' classes—on the spot." Well, quite recently an American administrator, Governor Benjamin Hooper, of Tennessee, committed himself to the State Penitentiary at Nashville to see for himself what sort of weather an amateur felon could make of it. His identity was known only to the warden, or governor, of the prison. At the end of twenty-four hours he sent for this gentleman, respectfully begged the loan of a pen, and wrote out

his own pardon. "Chaffed unmercifully for his ignominious retreat," he declared that, "honestly as he had tried, he could not stand prison life for another twenty-four hours."<sup>1</sup> Opportunity being given, it would be interesting to note whether, since the lagging of Mr. Hooper, the value of criminal life has risen in the Nashville Penitentiary.

An ultimate word in *The Times's* article on "The Sentence" carries a practical appeal:—

"That the Prison Commissioners should take into consideration the advisability of gathering together in as informal a manner as possible small conferences of judges and magistrates and justices of the peace, and consulting with them concerning the problems which have to be faced and solved."

There are difficulties, however. These gentlemen are scarcely in touch with one another, and not exactly eager for intimacy. As for "problems which have to be faced and solved," every judge, magistrate, and justice of the peace reckons himself a law unto himself, and has immemorially done so. Had there been among them the most elementary sense of a common interest they would long ago have come together. Each and all of them we have invested with an authority which at this day is individually, separately, and distinctively theirs or nobody's.

At the moment, the end of the matter seems to be this. We have no assured principles or principle of punishment. From judges of the highest courts to justices of the peace, there are upon the roll some five thousand legal persons who have power to pass sentences. These sentences, plainly looked at, are

<sup>1</sup> Case reported in the *Daily Chronicle*, December 23rd, 1911.

an affair of pitch-and-toss. "Your crime, prisoner," says the judge in effect, "is a very serious one, and I intend to deal with it in a very serious manner. Heads, I give you twelve months' hard labour; tails, you go into penal servitude for life"—and up goes the coin of fate.

## CHAPTER XVII

### THE PREVENTION OF CRIMES ACT, 1908<sup>1</sup>

WHILE this measure—"to make better provision for the prevention of crime, and to provide for the prolonged detention of habitual offenders"—was being discussed in Parliament, I made, at the suggestion of a friendly editor, some comment on it in his columns. That I may not repeat myself too often I condense the article a little.

Let us see what are the chief provisions of the new Bill in respect of the person branded as the habitual offender. He is convicted of a new crime, and sentence of penal servitude, we will say, is passed upon him. If, in the jury's opinion, the delinquent is an habitual offender, a professional criminal, a recidivist—the name matters little—the court may inflict a farther punishment—may, in fact, double the dose. As the Bill puts it, the court "may pass a further sentence ordering that on the determination of the sentence of penal servitude he be detained during His Majesty's pleasure," an ominous phrase hitherto associated only with Broadmoor. The second sentence is described by the Bill as "preventive detention." The habitual offender is one who has been four times convicted, or who, in the belief of

<sup>1</sup> The Act is in two parts. The first part deals with the "Reformation of Young Offenders," the second with the "Detention of Habitual Criminals." It is of the second part that I treat.

the jury, has been "leading persistently a dishonest or criminal life." Having done time at Portland, Parkhurst, or elsewhere, he is to be transferred forthwith to some other prison, "which the Secretary of State may set apart for the purpose." In this place he will still "be subject to the law for the time being in force with respect to penal servitude as if he were undergoing penal servitude"; but the rules of the convict establishment will be modified "in the direction of a less rigorous treatment." It is a trifle vague, but we are left in little doubt that the powers of the penal-servitude prison are to be in full force in the background. Here, then, the old offender is to remain until "there is a reasonable probability that he will abstain from crime, and lead a useful and industrious life, or that he is no longer capable of engaging in crime."

Once at least in every three years the Secretary of State will take into consideration "the condition, history, and circumstances" of the prisoner, "with a view to determining whether he shall be placed out on licence." Again: "The Directors of Convict Prisons shall report periodically to the Secretary of State on the conduct and industry of persons undergoing preventive detention, and their prospects and probable behaviour on release, and for this purpose shall be assisted by a committee at each prison . . . consisting of the governor of the prison and such other persons as the Secretary of State may appoint. Every such committee shall hold meetings at such intervals of not more than six months as may be prescribed." These, on a careful reading of the Bill, strike me as its most important parts.

Let me examine the definition which the Home Office or its advisers have given us of the habitual



offender, the professional criminal so called. He is a person against whom four convictions stand on record. I submit that this case is not necessarily as bad (and is very seldom as bad) as it looks upon the sheet. Before dismissing him off-hand as a professional criminal, liable to be shut up for a quite indefinite time, under conditions which are not explained, I want to know a good deal about this person who has done four separate stretches. It is a serious thing to decide about a man—that he lives, has lived, and means to live, by crime. I want to know what his offences were, and in what circumstances he committed them. I want to know in what manner he was punished for each of these offences. I want to know what chances he had to quit the crooked road for the straight one each time that he came out of prison.

My point, to make it plainer still, is this: Every time that we are trying for a crime a man who has been twice convicted, we are also trying (though we can seldom be brought to admit it) both the prison system to which he has been subjected and the whole social system of which he is a member. It is conceded—the question, indeed, is scarcely at this date open to argument—that the prison system is a failure. What is not so generally conceded (because this is a thing disgraceful to us all) is that society helps the hurtful work of prison by refusing a decent opening to the prisoner on discharge. By all means let us admit that there are such persons as professional criminals. But let us at the same time admit that both we and our prisons have had no inconsiderable share in the making of them. The one thing we should refuse to admit is that, the prison system and the social system being what they are, the professional criminal

is an irreclaimable. There are plenty of persons with four convictions behind them who would very willingly amend their ways.

I next observe that this unfortunate "habitual" is to be transferred, as his penance progresses, from a prison of one sort to a prison of some other sort. "Not at all!" says the complacent critic of the scheme; "his place of 'preventive detention' will be a kind of hospital or reformatory." I find nothing of hospital or reformatory in the Bill! The first sentence, which may be one of many years, will be served throughout under the system which has notoriously failed to justify itself. All prison is bad. It is hard and unwholesome for anybody to be permanently in a condition of disgrace, and disgrace and degradation are the state of the convict during every hour of his confinement. A fine notion truly it was that you were to reform wrongdoers by cropping their heads, rigging them out like mountebanks, sealing their mouths, tasking them at any sort of uncongenial labour, and rubbing it into them at every moment of their dreary, vulgar, and useless lives that they had put themselves beyond the pale of decency and were fit for nothing better! But this is penal servitude; this, and nothing less. Read the confessions of any member of the intellectual class who has been through it.

Now, I can imagine a place—a prison even, if it must be—in which an influence might be directed upon the old criminal hand such as he has never known, and never could know, at Portland. And here, of course, comes in the supremely important point: What is the system to be, what are the conditions of life to be, in the prison of preventive detention? In proportion as it resembles the convict

establishments the new place of detention must fail; in proportion as it differs from them it may succeed. The one great lack in the established system is the human or humanising element. No man was ever yet made better by being taught utterly to despise himself, but in the whole social organism there is not another situation so absolutely despicable as the convict's.

It is clear, I trust, that all this must be pretty thoroughly reformed if the Home Secretary's experiment is to avail anything. I do not quite see by whom it is going to be done. One thing seems eminently advisable: that there should be as little interference as possible by the autocrats of the old school. Unless the routine of life in the new place is once again to resolve itself into discipline and task work—the essence of penal servitude—we want no governor of the drill-sergeant pattern drafted from the army or the navy. Nor do we want a personnel such as the convict service has trained—admirable as that personnel is for the duties of keeping order and handling large bodies of men crushed for the most part into abject docility. A man passing out of penal servitude would need first, I should think, to have renewed in him some dim sense of self-respect, some sense of responsibility, some feeling of kinship with men not pariahs and lepers, some consciousness of normal life and its privileges as well as its pains; he would need to be mentally and morally toned up; and all this supposes and demands on the part of his mentors gifts which are not acquired in the convict service.

It would be extremely interesting to know what tests are to be applied in the cases of prisoners petitioning for release. Who are the psychological

experts of the Home Office who will decide whether the burglar placed in circumstances in which burglary is impossible to him is fit to be returned to society? What is to be the criterion of repentance?

Lastly, what is to become of the man who, in the fullness of time, succeeds in obtaining his discharge? The day is not distant when it will be recognised and insisted on that the State owes something to the ex-convict whom it has kept for many years in prison. The new Bill betrays no recognition of this duty.<sup>1</sup>

This measure is now on the statute-book; and, in support of my own criticism, I will take a page from the satirical reflections of Dr. Devon.<sup>2</sup>

Prisoners undergoing preventive detention "shall be subjected to such disciplinary and reformatory influences, and shall be employed on such work, as may be best fit to make them able and willing to earn an honest livelihood on discharge."

This, as Dr. Devon observes, "implies that prisoners are not subjected to such disciplinary and reformatory influence, and are not employed on such work as may be best fitted to make them able and willing to earn an honest livelihood on discharge; but if this implication is justified, why should they not be placed under helpful conditions from the first day of their imprisonment? To one who is not a legislator it appears foolish to insist that offenders should be placed under conditions which do not fit them to live honestly outside prison, and that this process should be repeated until they have become habitual criminals before it is ordered that steps shall be taken for their reform. What are the influences

<sup>1</sup> From the *Nation*.

<sup>2</sup> "The Criminal and the Community."

ordered by Parliament, and what is the work they have to be taught which will make them able and willing to earn an honest livelihood? Surely no Member of Parliament is credulous enough to believe that the influences and the work that will tend to make one man better will be suitable to all men."

The Act sets up a Committee the members of which must meet at intervals to inquire into the industry and morals of the black sheep in their care.

"Apparently, they need not meet more frequently than once in six months. Such a provision is too nakedly absurd to deserve discussion. Apparently, they have to report to the Prison Commissioners, who report to the Secretary of State. The position is therefore something like this—that prisoners after they have served prolonged periods in prison may be transferred to another part of the establishment in order to be reformed. In their new quarters the treatment they receive is to be less rigorous than it has been. The influences under which they have to be brought are described but not defined. The officers may be the same as those who were called warders in the other part of the prison, but they may have a new name—perhaps a new uniform. If the person satisfies the Secretary of State, whom he will never see and who knows nothing about him personally, that he is a reformed character, he may be liberated on licence; and he may seek election to the ranks of the licensed once in three years. His conduct and record will then be considered. What will determine the character of the record obviously is the impression he makes on those who come into contact with him. That is to say, he will mainly depend on the report of the warder, for, after all, does he not know most about the man? . . . The warder will report to the

head warder, who will report to the Governor. The Medical Officer will report as to the health of the person, and all the reports will go on to the Prison Commissioners, and from them to some clerk . . . who has satisfactorily passed a Civil Service examination on the boundaries of the Russian Empire, the death of Rizzio, or some such important educational subject, and who has never had any opportunity to know anything about prisoners save what can be learned from books, reports, and an occasional visit to prison. The reports will be carefully checked, weighed, and summarised, and the Secretary of State will sign the order made for him."

They might not have done much better than this in Laputa ; they would have done a great deal better in Lilliput. If we accept Dr. Devon's humorous account of the matter, we may guess what prisoners under the new régime will have the best chances of returning to freedom. "The man who has the best chance to get a licence under the Act is the man who can dodge best. All our experience points to the fact ; and it is not uncommon for the most objectionable character, by subservience and sycophancy, to impress favourably those who have the dispensing of privileges."

Sir Roger L'Estrange, in the moral of a fable assigned to Æsop, asserts that "the trussing up of thieves is the security of honest men." It is an argument that easily returns against the user. If all the cracksmen were put away at Portland, jewellers in Bond Street might dispense with patent shutters. If all financial sinners were bestowed at Parkhurst, the small fry of investors might enjoy a simple millennium of their own.

But not even in the new retreat erected by the



Act (which captivates the fancy of a witty and perversive leader-writer in the *Standard*) can we confine the enemies of society for a year of Sundays. Time and the hour run through the roughest day of imprisonment, and sooner or later the toughest subject is let out. In the hour that he regains his freedom the "security of honest men" depends in considerable sort on the treatment this malefactor has known in the seclusion we have forced on him. What treatment awaits him in his new asylum is scarcely at present understood; but Dr. Devon rightly and warningly insists that no penal institution "has yet been devised that even remotely resembles anything like the life that its inmates have to anticipate."

## CHAPTER XVIII

### THE CASE OF THE WOMAN

WOMAN is far less criminal than man. In all countries "the proportion of female offenders, as compared with female population, is at a very much lower ratio than that of males." "*Cherchez la femme!*" is an instruction that revolves between novels, farces, and police inquiries. It is loosely applied, as such taking phrases usually are, but a correct application it undoubtedly has. Dr. Hans Gross, the Austrian expert whose unrivalled professional experience entitles him to our utmost respect, attaches it to cases in which the motive is revenge.<sup>1</sup> "Revenge and the pursuit of revenge," he says, "are specifically feminine. The real, vigorous man is not easily turned thereto. In woman, it is connected with her greater sensibility, which causes anger, rage, and revenge to go farther than in men." This is also a fundamental doctrine of Lombroso, who is at one with other criminologists of the modern school in assigning to women a far smaller share of criminality than to men. "Statistics of every country show that women contribute a very small share of criminality compared with that furnished by the opposite sex. This share becomes still smaller when we eliminate infanticide, in view of the fact that the

<sup>1</sup> "Criminal Psychology."

guilty parties in nearly all such cases should be classed as criminals from passion."<sup>1</sup>

In France there are four times as many male criminals as female. In the United States there are at least twelve times as many. In Austria the crimes of women constitute about 15 per cent of the whole criminality; in Spain 11 per cent; in Italy 8·2 per cent. In our own country "the proportion is as fifteen males to one female in the convict population, and as five to one in the local prisons." Unhappily, the percentage of reconvictions is greater among women than among men; and I believe it is the fact that the woman who has once passed into prison is less likely than a first offender of the other sex to regain the path of honesty. Hard as it is for the man, society has made it harder still for the woman! It was stated some years ago that in the principal female convict prison in England (we have now, by the way, only one convict prison for women, the establishment at Aylesbury), "by far the largest number in custody are grey-haired, old, almost venerable-looking women." Statistics of recidivism inform us that "of the males, a percentage of 58·8 only had been previously convicted, and as many as 77·2 of the females."<sup>2</sup>

Lombroso, in "The Female Offender," seeks to demonstrate that prostitution is the true equivalent of

<sup>1</sup> "Criminal Man, according to the Classification of Cesare Lombroso." This is the summary of Lombroso's work by his gifted and devoted daughter, Gina Lombroso Ferrero, of whom the father says, in an introduction written shortly before his death, "that she has worked with me from childhood, has seen the edifice of my science rise stone upon stone, and has shared in my anxieties, insults, and triumphs; without whose help I might, perhaps, never have witnessed the completion of that edifice, nor the application of its fundamental principles."

<sup>2</sup> Report of Prison Commissioners, 1911.

criminality, and the modern school in general classes prostitutes as criminals. Of course, if this mode of calculation be agreed to, "the difference between the criminality of the two sexes shows a considerable diminution, resulting perhaps in a slight prevalence of crime in women." In this connection, I extract a paragraph from one of the latest of the Fabian Tracts<sup>1</sup>:—

"A barrister tells us that in his many years' experience at the criminal bar, practically all women convicted of indictable offences are (1) prostitutes, or (2) married women convicted of neglecting their children through drink, or (3) domestic servants who have succumbed to their peculiar facilities for stealing clothing or jewellery; usually girls in poor households and themselves physically and mentally below par. Of these three categories, prostitutes are immensely the largest, from 85 to 90 per cent of the whole. 'It would be almost true to say that indictable crime among women is confined to women who are prostitutes. This is, I fancy, the main explanation of the greater irreclaimability of women criminals.' "

Lombroso recognises among female delinquents a small number who "show an extraordinary degree of depravity, as though all the perversity lacking in the others were concentrated in these few. They are true-born criminals, epileptics, and morally insane subjects." He places in this circle "murderers,

<sup>1</sup> "Women and Prisons," by Helen Blagg and Charlotte Wilson. Fabian Tract No. 163. March, 1912. A little store of facts and references, skilfully arranged and effectively presented; a brief, highly condensed, and very luminous statement, which, to the reader's profit, travels far beyond the title of the pamphlet.

poisoners, and swindlers.”<sup>1</sup> Most offenders of the sex, however, Lombroso regards as belonging “to the category of criminaloids.”<sup>2</sup> He advises, as a substitute for imprisonment in these cases, “the cutting off of the hair, the obligation to wear a certain costume, etc.” This would be as bad as More’s public notifying of convicts in that most dismal “Utopia” of his. Would not Nathaniel Hawthorne’s angelic heroine have preferred a cell to the daily infamy of the “Scarlet Letter” on her bosom? The convicted criminal, carrying abroad her badge of whatever kind, would never be shielded from insult, and not always from assault. Ingenuity could devise no crueller penalty in our day.

## II

The late Major Arthur Griffiths, who, as deputy-governor, governor, and inspector of prisons, was many years behind the scenes, has given us a classification of the women in three divisions. The first embraces those impulsive criminals whose misdoing—frequently their first—“is more or less unpremeditated, born of some sudden overmastering excess or fury—a momentary madness, not sufficient to satisfy the courts of their irresponsibility, but

<sup>1</sup> “Criminal Man, according to the Classification of Lombroso.”

<sup>2</sup> Lombroso seems to define a “criminaloid” as an attenuated type of criminal. “While the born criminal,” says Signora Ferrero, “begins to perpetrate crimes from the very cradle so to speak, and always for very trivial motives, the criminaloid commits his initial offence later in life, and always for some adequate reason.” Lombroso himself says in “Crime: its Causes and Remedies”: “Criminaloids, while quite separable from born criminals, do not lack some connection with epilepsy and atavism.” He adds that criminaloids “differ from born criminals in degree, not in kind,” and have no marked anatomical peculiarities.

only to be explained as the temporary withdrawal of all barriers in a nature too easily inflamed." Criminals of this class, fewer in England than in France, are always the smallest category in our prisons. They seldom belong to the troublesome order. Their crime is usually serious—murder or manslaughter—and the terrible penalty it has involved is crushing in its effect. Often these poor women, sincerely and intensely penitent, suffer an agony of remorse through all the years of their imprisonment. The vindictive ones among them, on the other hand, those in particular who have come from refined or comfortable homes, are difficult to hold in subjection; and their furious and sudden outbreaks are, while they last, as dangerous to fellow-prisoners as to officers—sometimes most dangerous of all to themselves.

The second and largest class includes, according to Griffiths, "all who have taken to crime deliberately for their own base purposes; all who have drifted into it imperceptibly, the result of inheritance, of early associations, of evil teaching and example; all who, once embarked in crime, are seldom weaned from it, especially if it has been undertaken and continued at the instance of, or through devotion to, some criminal man—the parent, child, husband, more often the lover, to whom they are quite as faithful as though bound by the marriage tie." Very many of these are professional thieves and swindlers, the more famous and successful of whom are oftenest associated with some partner or partners of the other sex. In this class are found women of education, good linguists, clever and entertaining talkers, who lodged last in an elegant quarter of the town, are at home in the capitals of Europe, and



exchange in the reception-room a costume of the latest fashion for the ill-fitting dress and cap of prison. With one of these adventuresses, the handsome, facile, and persuasive Mrs. G. B., I once had a long and interesting talk in the editorial room of *Vanity Fair*—a deputed editor for an hour or so. Her carriage and pair, her patent shoes, her mauve silk stockings, and her eloquent conversation about the crofters of Scotland, for whom she was raising a fund and in whose interest she wanted an article in the paper, long remained in my memory. Mrs. B.'s career in London ended at the Old Bailey with a sentence of penal servitude for frauds of divers kinds.

Her ingenious goings-on, from Scotland to the south, are summarised by Major Griffiths in his "Mysteries of Police and Crime."

Major Griffiths describes his third division as "the lees and residuum of the other two." These are among the many failures of our penal system. In prison they are the most difficult class to deal with. Outside of prison these women are incorrigible law-breakers; inside they are almost incorrigible offenders. Were they numerous, it would be practically impossible to control them; for they spend half their time in prison, and are perpetually passing in and out. They are the prisoners chiefly responsible for those periodical "breakings-out" which are all but unheard of among male prisoners. Every wardress is familiar with that ominous prelude of revolt which opens with a drumming of feet on the door of a cell. The inmate of that cell has worked herself into a rage, and wants to get up a little mutiny in the ward. She is lying prone on the floor and has started to hammer the door with the soles of her feet. Every prisoner in the ward knows that sound, and the

example of the mutineer is pretty certain to be followed. If there are many "bad 'uns" in the ward the volume of sound gradually increases until there may be thirty or forty women on their backs in their cells, pounding with all their force at the doors, and the whole place is in an uproar. Trouble succeeds, of course ; but the ladies have had their fun.

Work in a woman's prison, though infinitely dull and savourless, can scarcely be called hard. Does any reader remember, at Queen's Hall, Portland Place, in the early summer of 1906, one of the most remarkable exhibitions ever held in London ? It was the Sweated Industries Exhibition promoted by the *Daily News*. At twenty-two stalls were seen forty-four workers of both sexes engaged at tasks which brought them in from a penny to twopence an hour—so many living illustrations of that most tragical of all reports on the labour market, Tom Hood's "Song of the Shirt." Here was a woman lauded in the catalogue as "a magnificent worker," busy at artificial flower-making. For fifty years she had made artificial flowers, "and for skill and indomitable perseverance she has no superior." The work is irregular. When fully employed, and working not less than fourteen hours a day, the woman could contrive to earn 10s. in a week. She lost two hours a day in fetching and returning tasks, she spent 6d. a week on paste, and her weekly rent for a single room was 4s. 6d. Here was a shirt finisher who earned from 12s. to 14s. a week by working seventeen hours a day. Here was a widow of seventy-two, who made confirmation wreaths. This "most accomplished and skilful worker" toiled on an average twelve hours a day, and earned 7s. a week ; rent 4s. 6d. Here was a glove stitcher, who had left at home a sick husband

and "six small children." She was paid three-halfpence a dozen, her average earnings "2s. weekly," her rent 4s. ! To complete the wretched tale, one had but to make the round of the two-and-twenty stalls. The exhibition was a strictly practical affair, and sensational only in so far as it gave a series of inexpressibly painful tableaux from life itself. Legislation was the object aimed at.

Alas ! every woman in the Sweated Industries Exhibition would have found prison a place of rest and ease. The tasks are in general light enough, and even the six hours' day in the laundry would be nothing to the woman who "takes in washing" at home. The women tasked in prison make cotton, linen, woollen, and jute articles ; sacks, bags, ships' fenders, and nosebags ; and among other employments are cotton, hair, and wool picking, paper sorting, and sugar chopping. For Government and other public departments they turn out hearthrugs, mats, mattings, bags, baskets, slippers, rope, and twine ; and for the prison service rugs, mops, brushes, belts, blankets, woollen cloths, sheetings, shirtings, handkerchiefs, calico, canvas, dowlas, towels, socks, and stockings. Some bookbinding is done, and some gardening ; and of course there is the general service of the prison, which includes cooking and washing. A convict before going to Aylesbury passes her brief term of solitary confinement in a local prison, where women on short sentences spend their whole time. I may note that during 1910-11 only forty-two female convicts were admitted at Aylesbury, of whom thirty-two were "recidivists" and ten "star" prisoners.

In all prisons—whether for men or for women—the best and most willing workers can be classed in

two divisions. They comprise (1) those "first offenders" who are genuinely penitent, and who want to forget their disgrace, as far as hard work may make them forget it; and (2) a certain number of the "old hands" who have learned by previous experience that industry, or the show of it, "comes cheaper" than skulking.

But on the women's side of the prison, even more than on the men's, there is always a considerable class of prisoners to whom serious and steady work of any industrial kind is not only detestable, but more or less impossible. The expert female sharper, shop-lifter, thief, or swindler, who has never condescended to use her hands like the rest of her sex, and who has a weakness for playing the fine lady in prison, spares neither trick nor tale in her ceaseless efforts to escape the drudgeries of her lot. The disgrace of prison she does not feel, but she bitterly resents the indignity of having to go down on her knees and scrub the floor of her cell and the corridor in front of it. Anything in the nature of an industrial task is abhorrent to her. She petitions the matron, upbraids the governor, wheedles the chaplain, and tells the doctor he is killing her by inches. Sometimes, when every other device has failed, she hurts herself with a needle, scissors, or fragment of glass, in the hope of being removed to the infirmary. She feigns sickness, insanity, epilepsy—anything that is likely to "come off"; and an old hand at the art of malingering often puts to the severest test the skill of the most experienced prison doctor. Occasionally, without any pretence whatever, she flatly refuses to work, in which case the Governor has to prescribe a few days' low diet, with solitary confinement.

Again, a prisoner of this class will work with

exemplary patience for weeks together, and then on a sudden break loose. The deadly monotony of life becomes too much for her. The adventuress whose free life is a perpetual, varied excitement, and who can face almost anything but a changeless round of common duties, is mentally unable to endure for long the hard, dull routine of prison. To almost every prisoner, indeed, this is one of the sorest trials of a long sentence. A situation is created which presently becomes almost, if not quite, intolerable. The stolid or the vacant mind sustains the awful lack of change with equanimity through a long course of years; but the imaginative, or the highly-strung temperament (and it is to be remembered that prison holds nearly all known types of both sexes) suffers more terribly than may be imagined; and an acute mental crisis may be followed by a brief defiance of all rule and authority.

Sometimes it is a fit of ungovernable passion, in which the nearest person (wardress or fellow-prisoner) is attacked with fury. Sometimes it is a fit of destructiveness, and the cell furniture is smashed, and the bed-covering and the clothes which the prisoner is wearing are torn to rags. It is a curious characteristic of these outbreaks that they seem often to be deliberately planned to bring punishment on the offender. A woman, locked in her cell, will divest herself of every garment, stand on her head, and scream for the wardress. She knows that she will be reported, and she *is* reported; but a "scene" on the following morning, in the office of the matron or the Governor, means a temporary rest from labours, and the punishment that is bound to follow means a break in the monotony of life.

As a rule, the most hardened female prisoners,

equally with the novitiates in crimes, are more or less amenable to gentle treatment, and this is the more successful in proportion as it is unofficial in character. The chaplain's ministrations are not invariably taken in good part, and where they are resented, or coldly acquiesced in, it is on the not very reasonable ground that the good man is "paid to talk religion." Many of them, however, find the chaplain a very practical friend, whose usefulness is not confined to quoting texts from memory. But the unpaid and unofficial visitors from the outer world—kind-hearted and sympathetic women above all—are those who win their way most effectually into the hearts of the female prisoners. Here is given freely the trust which is so often sullenly or fearfully withheld from anyone and everyone holding an official position in the prison, and the bruised heart finds balm. The prison baby plays quite an important part as a peacemaker and moral agent. With the consent of the mother, other prisoners on their good behaviour are allowed to nurse it for a while during the exercise hour; and a similar indulgence often calms the passion or relieves the melancholy of a truculent or despairing convict.

### III

From an article by Dr. Elizabeth Sloan Chesser in the *Guardian* I take a few paragraphs:—

"When I visited Ichigaya, one of the chief prisons for women in Japan, I was much struck by the humane and curative system that has been organised of recent years. The first impression of the prison contrasts markedly with one's idea of a prison in this country.



“There are no massive buildings and glass windows with iron bars, no bare stone floors, no long corridors and tiny cells where the prisoners spend hours in solitary confinement. The buildings surround a central courtyard, and are built of wooden planks or standards, cage fashion, so that the prisoners are living an open-air life day and night. The floors are covered with corn-coloured matting, and the woodwork is polished till every grain is visible. The prisoners wear pink *crépe* kimonos, which contrast with their ivory faces and gleaming hair.

“We were taken to one large room where three rows of pink-clad figures were squatting Japanese fashion on pink cushions on the floor. They greeted us with shy smiles and soft murmurs of ‘Ohayo,’ the Japanese ‘Good day,’ while they simultaneously bowed the blue-black heads to the ground. Politeness is one of the chief virtues in Japan, and in the prison special lessons are given in manners and deportment, and classes are even held to teach the art of tea-serving, which is an important ceremony with the Japanese. The idea is that whatever raises the self-respect of the prisoner, whatever improves her behaviour and manners, aids her reformation. The teaching is very comprehensive. Lessons are given in weaving, dressmaking, and sewing, and we saw some exquisite embroideries made in the prison, and artistic garments cut kimono fashion. . . . Prison in Japan is an educational agency, and the women work and are paid wages for what they do. Prizes and decorative awards are also given as an incentive to good work and conduct.

“The Japanese of to-day could teach us a great

deal in the matter of penology. They allow their prisoners more liberty, they show a more sympathetic interest in their welfare than we do. Everything is done to teach them industry and morality. . . .

“When the prisoners have served their sentences arrangements are made by the State for providing them with remunerative work on discharge.”

In an American work, “Crime and Criminals,” to which reference has been made, a forbidding account is published of life on the women’s side of San Quentin Prison, from details supplied by ex-prisoners to the Los Angeles branch of the Prison Reform League. I select without prejudice a few passages here and there. The matron alluded to has left the prison.

“Nothing is taught that can be of the slightest use to the prisoner after her discharge, the accomplishments to be learned being cigarette smoking—each woman receiving every Monday afternoon her sack of tobacco and package of papers—and other vices. . . . Nearly every woman there has voiced the sentiment, not once, but many times : ‘I shall be a thousand times worse a girl when I leave this living hell than I ever dreamed I could be.’

“As for rules they are non-existent. What is right to-day is wrong to-morrow. One does not know until, in the matron’s own phrase, she ‘lands’ on one.”

The chaplain “held a little service in the office about once in every three months,” but “no one was invited to attend,” and “those who did were obliged

to hear all manner of ridicule directed against him by the matron." Many a time after the California Club women or the Salvation Army lassies had held their service in the office, "the table would be rolled back and the negro women and those of the white women who were low enough in their tastes to enjoy such a spectacle, would be called in and, while one would strum on a banjo the rest would raise their clothes and give a leg show. The higher the kicks the better the matron enjoyed it. At the same time gambling would be in progress. An attempt to form a Bible-class study was stopped. No books that could be used for educational purposes were obtainable, and every effort toward self-improvement was discouraged."

A dungeon in the prison is described :—

"A vile place, six by ten, without a ray of light or even a crack for ventilation. One is thrown in here with a straw mattress on the cement floor and a pair of blankets. It is damp, never cleaned or aired, and after one is there for a few hours the oxygen is exhausted and the head feels as if a tight band were around it. A hunk of bread and a pail of water furnish the food, and, as one is not allowed anything else, the condition of the hair and body can be imagined.

"A coloured woman named Belle N. was serving a term of ten years. At the end of three years, after having been accorded the privileges granted by the matron to all coloured women, she turned on the matron and made threats that she would do her bodily harm. This woman was locked in her cell, and for three years, or nearly four, was never allowed to leave it save for one hour every Friday.

Just one month before her release should have come she was removed to an insane asylum, and in two weeks was a corpse."

The doctor "is a dissipated young fellow who would not be tolerated as a physician in any place save where he is. He was invariably intoxicated when called in, and if it were after 5 p.m. his anger and vulgarity knew no bounds. He would abuse and insult the women in the vilest and coarsest of language, and of course the poor creatures had no redress."

A letter from a prisoner's friend :—

"I went to see M. yesterday, and if you could hear a story of all she knew and saw you would shudder. The account of the members of the legislature in 1904 and 1905 visiting in the night—after matron had gone home—all of them drunk, of the happenings in the rooms of the fast women there, of the taking of money from the men, especially 'Papa Bliss,' as the women called him, and Captain H. of the guard who accompanied him."

The charge contained in the last paragraph, it is said, "has been confirmed by other testimony."

America, as I have observed, gives us, in respect of prisons, examples of the worst and of the best. The narrative that follows is from the pen of Signora Ferrero :—

"The Reformatory Prison for Women at South Framingham, near Boston, under the management of Mrs. Morton, is an excellent example of an institution conducted on the lines laid down by criminologists. The Reformatory is situated at about an hour's journey by rail from Boston, in the

midst of fields which are cultivated by a part of the convict population. No high walls surround the building and separate it from the outer world, nor is it watched by guards. A broad avenue leads to the entrance, where, in answer to my ring, I was welcomed by neat, white-clad attendants and shown into a charming room looking out upon a lovely garden. I passed through corridors, unmolested by the sound of keys grating in locks, from this room to the dining-rooms, dormitories, recreation- and workrooms.

“As soon as prisoners enter the Reformatory they are carefully examined by an intelligent and pleasant woman physician, who is in charge of the infirmary where the anthropological examination takes place. When the prisoner has been declared able-bodied, she is placed in one of the workrooms to learn and follow the trade indicated by the medical officer as the best adapted to her constitution and aptitude. At night she is conducted to a second-class cell situated in a large well-lighted corridor. The cell is furnished with a table, bed, chair, pegs to hang clothes on, a calendar, a picture, and a book or two.

“Work is compulsory and done by the piece, and when each prisoner has finished her allotted task, she is at liberty to work for herself or to read books supplied from the library. If unskilled, she receives instruction in some manual work, and the payment for her labour is put aside and handed over to her on her release, with the small outfit she has prepared and sewed during detention.

“Women with children under a year, or those who give birth to a child in the Reformatory, are allowed to have their little ones with them during

the night and part of the day. When they go to work every morning, the babies are left in the nursery, which adjoins the infirmary, and is under the direct supervision of the doctor. The nursery, a large, well-lighted room, spotlessly clean and bright with flowers, is a veritable paradise for the little ones.

“At noon the prisoner is permitted to fetch her baby, feed, and keep it near her during dinner-hour. At two o'clock she resumes work until five, when she again takes charge of her baby till next morning. A cradle is placed in her cell for the infant, and she is provided with a small bath.

“A series of trifling rewards encourages moral improvement. Those who show good conduct during the first two months are transferred to the first class, with its accompanying privileges, and better and more spacious cell, a smart collar, the right to correspond with friends and to receive visitors more frequently, to have an hour's recreation in company with other good-conduct prisoners, and to receive relatives in a pretty sitting-room instead of in the common visitors' room.

“The final reward for uninterrupted improvement and untiring industry on the part of the prisoner is her ultimate release, which, since the sentence is unlimited, may take place as soon as the Directress considers her competent to earn an honest living.

“But released prisoners are not left to their own devices, with the risk of speedily succumbing to temptation. A commission of ladies interested in the Reformatory (one of whom, Mrs. Russell, was my guide on the occasion of my visit there)



are consulted before the release of each prisoner and undertake to furnish her with suitable employment, and to guide and watch over her during the first few months so that she may be sure of advice and assistance in any difficulties."

#### IV. THE SUFFRAGETTES

If men after leaving prison have often been chary of passing on its secrets, still charier have women been. There is a volume of lively and poignant interest, published exactly fifty years ago, the author of which practised a slight and harmless deceit upon his readers.<sup>1</sup> "Robinson, L. W." was no "prison matron," but the male author of many popular and graceful novels, and a companionable man with a legion of friends. I remember a dinner to him in London a good many years ago when he was editing a weekly paper. For his book on prison, his artist's feeling helped him to pierce into and through the subject, and so complete is the illusion he creates that his survivors might have sued the Government for his pension as a superannuated wardress.

The authors of the Fabian Tract say :—

"No female prisoner recorded her experiences until suffragists in large numbers were sent to Holloway (1907-11)."

This leaves out of account Mrs. Maybrick's volume "My Fifteen Lost Years," but Mrs. Maybrick is much (and naturally) occupied with her own case before the courts ; what she has written is in the main an

<sup>1</sup> Robinson, L. W. : "Female Life in Prison. By a Prison Matron." 1862.

affecting piece of special pleading, and misses the catholic qualities of such works as the anonymous "Five Years' Penal Servitude," Davitt's "Prison Diary," and Balfour's "My Prison Life." The authors of the Fabian Tract are substantially correct. We have had little from women about prison since Elizabeth Fry celebrated Newgate as "Hell above ground."<sup>1</sup>

The literature at present flowing from the woman's suffrage movement has therefore a well-defined, a specific interest for us. It is a literature apart. It is spick and span new. Like all good crusading stuff, it is ginger in the mouth. If it has deviltry, however, it has also its own sufficing dignity. If it has passion, it has humour too, where humour is admissible. Most of it is extremely clever.

Many of us, I suppose, are in some degree acquainted with *Votes for Women*, the newspaper of the movement. Among books, it will be enough for me to name three emphatic and well-sustained examples of the new kind of writing. "The Suffragette: the History of the Women's Militant Suffrage Movement, 1905-10," in which Miss Sylvia Pankhurst unfolds the whole campaign and its designs, is like a succession of valiant drum-taps. The book ends on this note of aspiration:—

"May we prize and cherish the great selfless spirit that has been engendered and, applying it to the purposes of our Government—the nation's housekeeping—the management of our collective affairs, may we, men and women together, not in

<sup>1</sup> Pilgrims to the shrine of this noble Quakeress may be reminded that there is a new "Life" of her from the pen of Mrs. G. K. Lewis, who omits nothing of Elizabeth's career from the hour of her conversion at the meeting-house in purple boots laced with scarlet.

antagonism, but in comradeship, strive on till we have built up a better civilisation than any that the world has known. For surely just as those children are fortunate who have two parents, a mother and a father, to care for them, so is the nation fortunate that has its mothers and its fathers, its brothers and its sisters working together for the common good."

The second of these treatises is Miss Constance Maud's "No Surrender"; and the reader in a hurry to forget the dolours of the cell should, on closing it, ask at once for that delicious piece of humour from the same pen, "An English Girl in Paris." The third is but a pamphlet in bulk, "The Prisoner: a Sketch," by Miss Helen Gordon, who records her impressions with the simplicity and fidelity of an exile in Siberia. Indeed, it is to Russia that, in exploring the writings of the suffragettes, one must sometimes turn for parallels.

This is true, I think; but no one cognisant of the situation in Russia—whether European or Asiatic—would venture to compare the case of a suffragette in Holloway, or in the mouldiest of local gaols in the provinces, with that of any girl or woman, condemned for her political sympathies, in any prison of the Czar. There are differences incalculable, inconceivable. Against the worst illustrations of forcible feeding, handcuffing in punishment cells, and so forth, in Holloway or elsewhere, proofs can be produced from Russia of the beating of women with *nagaikas* and india-rubber sticks, and of their attempted violation. Women in the Russian prisons have set themselves on fire with kerosene to escape horrors unmentionable.<sup>1</sup>

<sup>1</sup> Kropotkin: "The Terror in Russia."

Turn from Prince Kropotkin's book to Mr. Perris's. These things are not exceptional in Russia; they are a part of the order of the day in all the prisons. At intervals something really great happens, such as the slow bleeding to death of the beautiful Hope Sigida under the butcher's rods of Bobrovsky.

It is happy for the suffragettes—and for ourselves—that this contrast can be made.

Coming to prison to gather the first-fruits of their rebellion the fighting vaward of the suffragettes took the line that might have been anticipated, for from the onset they had shown themselves to be creatures of mettle. Women of all ages and almost all ranks, a single aim united them as prisoners: either to obtain recognition as political offenders or to reduce to foolishness a man-made system of punishment. It was a spiritfui game, and these lilies of the W.S.P.U.<sup>1</sup> were in no sense lily-hearted. Original in everything, the militant suffragettes brought about a situation unprecedented in a place in which any breaking of rules usually means pepper in prompt doses for the breaker. Cells were barricaded, the prison garb was rejected, the prison tasks were refused. "Mutiny, by G——! sirs," as the admiral said. In Russia these courageous ladies would undoubtedly have been bruised; in Holloway and in local prisons up and down the country they succeeded in bruising the heel of authority. Authority, of course, had means of retaliation; punishment cells were thrown open; diet was diminished; handcuffs were produced. Much has been said about the example set by the suffragettes to other prisoners; I am here concerned only with the fortitude they displayed in the painful fix of their own deliberate

<sup>1</sup> Women's Social and Political Union.

contriving. Some of these prisoners were too young and weak, others too elderly and weak for the quarrel they had espoused ; but, being entered, they carried it with the spirit and endurance of their sex.

I take a few isolated passages from Miss Helen Gordon, who, in the autumn of 1909, did her time at Strangeways Prison, Manchester.

The prisoner is led out for exercise in the yard. She is rather weak from hunger.

“ The iron gate is unlocked, and out they go into the bare prison yard, where there are three prison rings. . . . The prisoner has paced those narrow paved paths until she knows exactly how far in the day they walk, sometimes between two and three miles.

“ Round and round they tramp, these two—the prisoner looks up at the clouded sky, and thanks heaven that it is blue and white to-day, with hope sown broadcast—her feet are cold, she draws the cape closer round her—what a relief it is to be out in the open.

“ Round she moves—looking up at the windows of one wing of the prison, and counts the windows—one—two—three, etc. It is an old worry of hers—it has bothered her for days—eleven—twelve—thirteen—no, fourteen—no, she has missed one. . . .

“ It is an endless round—sometimes the prisoner’s thoughts will carry her round the circle twice, without being conscious of weariness—she will imagine her release—her journey away—the activities to come. Very often, towards the end of the hour, on some days when her body feels too ill to bear it longer, her thoughts and imaginations play with the horrors that surround her—those

terrible moments spent in hospital, night and morning.

“As the hour goes slowly by, her head becomes giddy with the repeated circling—her body cries out for food—the sky loses its charm, and there is nothing left save the monotony of the machine—the putting of one leg in front of the other on the narrow path set in the straggling sodden grass.”

The hour's outing, in a word, becomes after a short period of confinement almost as painful as anything in the day's routine.

In the cell in the afternoon:—

“The cold is gradually penetrating—every afternoon the prisoner knows that an hour after exercise her body will become gradually petrified—she sits with her cape on, with only the tips of her toes on the tiles now—surely, little by little, the cold creeps up in those four solid hours of solitude, before the last scene of the day. Sometimes she rouses herself to do a few exercises—but her body is tired—starved—her will quiescent, and the sound of those heavy shoes on the floor she cannot bear—sooner would she sit and bear what she knows must come.”

What she knows must come! What is it that the prisoner knows must come? This asks a word of explanation, though the story has lost by now its unpleasing novelty.

The last act of rebellion possible to the suffragettes in prison was a rebellion against food. They resolved upon a hunger strike. By political prisoners in Russia this manœuvre has frequently been practised. In Russia or in England it is a sharp conclusion to



submit oneself to. During the summer of 1909 the suffragettes began their hunger strike at Holloway. Miss Wallace Dunlop entered on it at a crisis framed to test a woman's nerve, for, says Miss Sylvia Pankhurst, she had "gone alone to prison." Miss Pankhurst adds: "Miss Wallace Dunlop has not the vigour and reserve force that belong to youth, and she is of a fragile constitution, but she never wavered, and went cheerfully on with her terrible task." She was tempted like another Eve. "The ordinary prison diet was no longer placed before her, but such dainty food as at other times is not seen in Holloway." From day to day the doctor, with a sporting interest in the contest, asked: "What are you going to have for dinner?" and Miss Dunlop, who "had always a smile for him," replied: "My determination!" For five days she abstained from food, and on the evening of the fifth day she was released.

The hunger strike was kept up by prisoner after prisoner in one prison and another. Miss Helen Gordon tells us in her unaffected way how it felt to the strikers. The last meal of the day is brought to the cell, "a great mug full of a steaming fragrance of hot gruel. Well does she remember her scorn of the delicacy in bygone times—but now it arrests her with a fresh force. In the cold cell, herself almost petrified—the jar itself would be welcome in its warmth—but she dare not risk a nearer acquaintance—never has her sense of smell been so assailed—so keen—so appreciative." She lifts the mug, and "puts it in the far corner of the cell by the door and on the floor. There it stands—an aggressive temptation, with the little brown roll."

It was with such scenes as these in mind that I spoke of the newness of the literature of the suffragettes.

The Government, put to a pass, decided to end the hunger strike by force. The women who refused to feed were to be fed. Thus, in the course of the struggle, we have Miss Helen Gordon (among other prisoners) waiting in her cell for "what she knows must come"—the visit of the doctor, with his wardresses, his gag, and his feeding-tube. As this odious episode of the strife is closed (at least, I believe so), I willingly slur the particulars. They may be studied in the three books I have cited, where the display of them is eminently proper. The forcible feeding was a modified form of torture: about this, when the sky is clear, there will scarcely be dispute. "Question by water" was honoured by time until close upon the French Revolution. Question by "a stiff mixture of mince and bread," the examination lasting "for twenty minutes," was a late improvement of our own. I will put in only two depositions.

Miss Gordon says:—

"But the worst torture of any kind was the abominable tube-feeding. I was held forcibly in a chair [towards the end of the book she sets out the scene in full, and describes the sickness of one of the wardresses in attendance], the gag was jammed in, and my jaws levered open, and with that pain continuing, a rather larger india-rubber tube was forced down my throat through my open mouth. The feeling of choking was intolerable, with my jaws immovable and my head held back, and at the end of the operation the deadly sensation of sickness and collapse, with cold shivering fits, was such as to cause the doctors to order me to bed in hospital at once."

This prisoner lost a stone's weight in a month.

Lady Constance Lytton, who believed "that she had been released from Newcastle prison on account of her rank,"<sup>1</sup> went disguised in a procession to Walton Gaol, was arrested, and "gave Jane Warton, seamstress, as her name and occupation." Refusing food in the prison, she was forcibly fed. "I forgot what I was in there for, I forgot women, I forgot everything, except my own sufferings, and I was completely overcome by them."

As these histories have ceased, I may break the narrative.

Have the suffragettes assisted the cause of prison reform? Surely they have. In recent years, from many sources, abundant light has fallen on the prisons of the other sex. The women's prisons, until the suffragettes went into them and stunned the ear of the public, had received but the scantiest illumination. The clamour over the vote is one thing, and will have its foreordained result: "agitations of the public mind," as Macaulay said of the question of parliamentary reform, "so deep and so long continued as those which we have witnessed do not end in nothing." But, when the battle of the vote has fallen, when the last suffragette has munched or hurled through the window her last prison crust, and when the governor and doctor and chaplain and matron have said grace over the case of wine despatched by a grateful Home Office restored to tranquillity, then we may begin to look for some reaping of a harvest sown with tears and lamentation.

Already, "since the revelations of the suffrage prisoners in 1908-9, a medical woman Inspector of Prisons has been appointed."<sup>2</sup> Next there will be a

<sup>1</sup> "The Suffragette." E. Sylvia Pankhurst.

<sup>2</sup> Fabian Tract.

doctor of the sex, and for the sex, in all prisons in which women are confined. At the last we may expect to see a lady on the Prison Commission, and how very nice this will be for the gentlemen !

In almost every statement made of late years by suffragettes who have passed through prison there is something—nay, much—for discussion : suggestions about food, hygiene, discipline, punishments. Twelve correspondents of the authors of the Fabian Tract, whose letters “are first hand and carefully verified,” have informed them on several leading points.

“The food may be sufficient to ward off the actual pangs of hunger, but the monotony of the diet amounts, after a time, to positive torture.”

“The food is scanty, the ventilation totally inadequate ; the result is to make prisoners dull and stupid, unfit to earn their living when they come out ; yet the reason that many are there at all is chiefly from their inability to earn an honest living.”

“After the prisoner has been locked in the cell all night the air is unbearable, and its unhealthiness is increased by damp. The cells are washed at six in the morning, and the corridors are washed at the same time. In spite of the fact that any adequate ventilation is impossible, owing to the height of the windows and the small area that opens, the prisoners are locked into the cells again at seven for breakfast, so that they sit in a wet cell and are forced to breathe the evaporating moisture which cannot escape. A great number of the prisoners suffer from chronic catarrh, and anyone with a tendency to consumption could hardly fail to contract the disease.”

“ Every endeavour is made to render the life dull, monotonous, and dreary ; all the surroundings are hideous as human ingenuity can make them, the food unappetising, and the whole tone brutalising and hardening.”

I never yet could make out whose business it is to reform prisoners (no one on the staff having his part in the daily round has any time for that), and the charitable of both sexes who minister unpaid within the gates must repeatedly have taxed themselves with the question. Mrs. Fyvie Mayo, who recently gave us her delightful “*Recollections of Fifty Years*,” gathers up in a few pregnant sentences her own experiences as a visitor to women in prison :—

“ I saw no movement either towards the reformation of the prisoner or the protection of the community. . . . The best part of each degraded nature was as suppressed as its worst part. Humanity was simply stultified. The perpetually returning prisoners had actually that mysterious thing, the ‘institution look.’ ”

Yes ; the women, like the men, are “ perpetually returning,” and they get the “institution look” ! “ The prisoner hears from the wardress,” says Miss Helen Gordon, “ that it is a relief to see one fresh face—that they come in over and over again, and each face brings a history. What is it in this atmosphere that breeds sin ? ” “ A suffragist,” says Miss Evelyn Sharp,<sup>1</sup> “ has only to go to prison in order to discover afresh why she is a suffragist.”

We have learned from the suffragettes this, among

<sup>1</sup> In a critical communication to the *Nation*, January 6th, 1912, in which she cordially recognises some changes for the better.

many other things, that the prisons of the women are every whit as useless and as hurtful as the prisons of the men.

As regards the influence of the suffragettes themselves on the general life of prison, we have the very interesting statement of Miss Georgina Brackenbury (just set free from Holloway) to a representative of the *Standard*:—

“I saw Miss Georgina Brackenbury yesterday, and asked her: ‘Do you find any alteration in the prison system, comparing it with your experience in Holloway four years ago?’

“‘The atmosphere is entirely different. I think breaking the windows in Holloway has brought in more light. The Suffragists have effected such a change and such a reform in the whole of the prison system that it has made prison almost unrecognisable. Compared with progress in the past, a couple of years has done what a quarter of a century could hardly have accomplished. The much more humane treatment throughout of the ordinary criminal has had the effect of making the management of these criminals a very much easier matter for the officials generally. The temper of the prisoner is very much improved by less rigid rule, while at the same time they themselves seem to find more courage and more determination to grapple with their life outside, and ‘not come back again.’

“‘How did you come to realise this?’

“‘Well, the most remarkable thing to me was the change of expression in the faces of the prisoners, and the less strained and happier look of the officials. That the prisoners themselves



trace the improvement to the Suffragists is shown by odd, broken sentences, such as "You 'ave done a lot for us!" "Gawd bless you!" " " "

The suffragettes, as prisoners, have played a valiant and profitable part.

## CHAPTER XIX

### IMPRISONMENT A FAILURE

#### I. HISTORICAL

IN "The Criminal and the Community," far and away the best book ever written by anyone actually identified with the system, Dr. James Devon, medical officer of Glasgow Prison, says :—

"All sorts of systems have had their trial in dealing with the offender. It has always been recognised that it was necessary to remove him from the place where he had offended. He has been transported to other lands, there to begin a new life ; but the conditions under which the operation was carried out were appalling.<sup>1</sup> He has been placed in association with other offenders, and left, with very little supervision, to become worse or make others worse. He has been placed in solitary confinement ; cut off from company of any

<sup>1</sup> The story of Botany Bay, from the landing, in January, 1788, of Captain Arthur Phillip, R.N., to the shipping of the last batch of convicts from England to Australia as recently as 1867, is an extraordinary mixture of the horrible, the humorous, and the high romantic. The place itself was both the paradise and the hell of felons. The "land of the lash" for some (Canon Horsley tells us, in "Jottings from Jail," of 158,000 lashes inflicted in one year in New South Wales and Van Diemen's Land), it was for others—the lucky convict jacks-in-office—a land of milk and honey. And all the while the colony so inauspiciously established was growing into splendid opulence. It is, in some respects, the strangest story in the world.

sort; with the result of wrecking his mind as well as his body. At present he is separated from his fellows, but he has no opportunity to come in contact with healthy social life. One system has broken down after another. All systems have failed to deal with him satisfactorily."

Prof. A. F. Murison, LL.D., in his "Introduction" to Dr. Devon's book, remarks:—

"We are supposed to have travelled far from the mediæval brutality of prison life, but have the changes not been superficial rather than deep? Setting aside the catalogue of minor regulations and regarding the broad spirit of prison life, one cannot but recognise that the conditions still prevailing have much in common with the past. If we look for the really essential changes during a hundred years, we find just these: (1) A surface cleanliness of apparent perfection; (2) conversation, prison visits, and arrangements tending towards a decent sociability between 'prisoners and prisoners' and the public reduced and rendered difficult by multitudinous by-laws. On the one hand, a cleanliness obtainable only by irritating industry disproportionate to its proper value; on the other hand, a reduction of such facilities as are most likely to prevent a prisoner from degenerating to a social alien, an automatic machine, or a lunatic.

"The after-effects of a long sojourn in prison are not readily realizable: it would require a very lively imagination to picture the life and its inherent possibilities. The fact that some prisoners do manage to get through their existence without falling into despair may be taken rather as a

tribute to the chances of exception confounding rule than as a proof of conversion to virtue through punishment. It is too much to expect that an ordinary man that has been incarcerated for a period of seven, or five, or even three years, can become, on his liberation, once more a 'respectable' member of society. His spirit has been cowed; his self-respect has been annihilated; he has been disqualified for re-absorption in the community; he has been prepared to gravitate once more towards crime and prison."

These are two of the most recent pronouncements on the subject.<sup>1</sup>

## II. SOME "PROFESSIONAL" OPINIONS

In considering them we must hold to one fact of cardinal importance. It is, that the true, dark, intimate, and innermost life of prison undergoes no real change. Such as the convict was when Michael Davitt received his gruel from the judge nearly thirty years ago, such is he essentially at this day: in his ludicrous and humiliating clothes, in his deprivation of almost every right, in his state of practical slavery,<sup>2</sup> in the dumb degradation of his daily existence, in his complete uselessness to himself and to society, in his starvation of soul, in the utter blankness of his outlook. The more the Commissioners change him—by a trifling new by-law here and there—the more he remains the same thing. To every apothegm its

<sup>1</sup> Dr. Devon's book appeared in January of this year.

<sup>2</sup> "A Modern Form of Slavery," Lombroso, in a letter to Professor John H. Wigmore, first president of the American Institute of Criminal Law and Criminology, May 3rd, 1909.

exception : " The universe is change," except within the gates of prison.

Oscar Wilde says, in " De Profundis " :—

" The paralyzing immobility of a life every circumstance of which is regulated after an unchangeable pattern, so that we eat and drink and lie down and pray, or kneel at least for prayer, according to the inflexible laws of an iron formula : this immobile quality that makes each dreadful day in the very minutest detail like its brother, seems to communicate itself to those external forces the very essence of whose existence is ceaseless change. . . . For us there is only one season, the season of sorrow. . . . For prison life with its endless privations and restrictions makes one rebellious. The most terrible thing about it is not that it breaks one's heart—hearts are made to be broken—but that it turns one's heart to stone."

" Portland as I knew it," says Jabez Balfour (and this was fifteen or twenty years after Davitt's time—Mr. Balfour does not give the year of his transference to Portland), " was a heart-breaking, soul-enslaving, brain-destroying hell upon earth."

This single sentence, already quoted, is, I think, the only one of its kind—almost the only passionate expression—throughout the whole of a work signalised at once by the force and the temperateness of its criticism of the prison system.

Michael Davitt, in a famous letter to the *Daily Chronicle* on the question of the recidivist, the criminal who returns time and again to prison, says :—

" All the sneers in the armoury of official criticism at meddlesome reformers cannot dispose of

this damnifying evidence against the failure of the existing system to reform the criminal.

“The reason of this failure is not far to seek. All individuality is mercilessly suppressed in the prisoner. No prisoner is allowed to do anything except with the permission and in sight of a warder. He is the object of constant and ceaseless vigilance from sentence to liberation. He is closely watched when at prayers in chapel. He is under the warder’s eye while in his cell, and is never for a second lost sight of while at work. He is made to feel in every particular of his routine life of silence and labour that he is treated, not as a man, but as a mere disciplined human automaton. To possess a will or to attempt to exercise it even in some praiseworthy or harmless manner—as, for instance, to share a piece of bread with a more hungry fellow-unfortunate—is to commit a breach of prison rules. The human will must be left outside of the prison gates, where it is to be picked up again five, seven, or fifteen years afterwards, and refitted to the mental conditions which penal servitude has created in the animalised machine which is discharged from custody. All initiative has been enervated under a remorseless discipline, and a man, weak in mental and moral balance at best, is turned out into a cold, repelling and pitiless world, crippled in all those qualities of self-reliance which are the essential needs of a creature destitute of friends, and liable to be a prey to the ticket-of-leave hunters of the law. The system which reduces a man to a condition of moral helplessness of this kind may be scientific, ‘just,’ punitive, and all the rest ; but it is not, and cannot possibly be, reformatory, any more than it can be merciful, Christian, or considerate.



“It is not in the nature of things human to expect sentient, reflective beings, no matter how degraded by crime, to be cured of their moral maladies through the media of inhuman submission, or to be deeply impressed with respect for a law which penalises almost every natural faculty in a prisoner in retaliation for his offence against society. Working on such lines, on the lines of greatest resistance, it is no wonder that penal servitude is a fruitful nursery of recidivism and a patent instance of expensive failure.”

“It is a system,” says H. J. B. Montgomery, the intelligent ex-prisoner whom I have already cited, “solely and only concerned about the performance of the daily routine and the safe custody of the prisoners. Its tendency is to atrophy every human feeling, and to induce and accelerate a moral and mental degeneracy. Whether from a utilitarian, a moral, a philosophical, or a common-sense standpoint, it must stand utterly condemned. . . . It is based on no principle. It is terribly expensive. It is responsible for a constant manufacture of professional criminals and lunatics.”

Lord William Nevill :—

“The only really happy time I had when I was in prison for those three years and nine months was when I was asleep and dreaming of being free.”

On the pregnant and poignant concern of getting out of prison, after a sentence long or short, I have in the first chapter cited Oscar Wilde. Lord William Nevill, contemplating his release from Parkhurst, says :—

“ I knew that I had yet to bear what is by no means the lightest part of the punishment to a man having once been in the position that I had been in—the loss of friends, and the cold contempt of those who had once been among my most intimate acquaintances.”

A certain “ No. 7,” author of “ Twenty-five Years in Seventeen Prisons,” says that, “ under the old regimen, as well as, in a lesser degree, under the new, an ex-convict who desires to mend his ways and do the thing that is lawful and right is more heavily handicapped than any other man struggling to live ; and if he goes to the wall, it is often solely because any other man in like circumstances would and must also go to the wall . . . so great is the pressure placed upon him.”

Montgomery asks :—

“ How, then, comes it that so many criminals, to whom a helping hand is held out on their release from gaol, return to wallow in the mire ? The explanation seems to me to be simplicity itself. The charitable people, or pseudo-charitable people, are largely the cause of it. They make the path of the ex-criminal so hard, the building up of the character process so difficult. . . . When a man has once come under the ban of the law in this country, the difficulty really is to avoid becoming one of the criminal classes. The way to that end is smooth ; society has rendered, and still renders it so. ‘ The world,’ to use that convenient abstraction, expects that a man who has been in gaol will continue on an evil course.”

## III. MARK TAPLEY IN "STIR"

Now let me turn for a moment to a curious piece of writing (I have already alluded to it) in a rather light and cynical vein : a piece of writing a little out of the common in the literature of prison.

By a prisoner's temperament we may measure with some accuracy the effect of a sentence of imprisonment or penal servitude. Once behind the bars, all felons come under the same treatment ; but it affects A in one way, B in another way. There are those to whom the punishment—or chiefly perhaps the degradation of it—is a long and changeless horror. There are others to whom it is a disagreeable experience, to be borne with resignation. There is a third class that makes the very worst of everything in prison, and keeps the nerves of the warders on the stretch. There is a fourth that makes the best of everything, and this attitude helps prisoners and officers alike.

To Oscar Wilde, writing in his cell at Reading, "all sentences are sentences of death." To Lord William Nevill, roped to a cart at Parkhurst, "the open-air exercise and the variety were a positive delight after the monotony of crawling along with the hospital party." Mr. Jabez Balfour served a terrible sentence of eleven years in a true philosophic spirit, and at the end of it sat down to compose the best, most temperate, and most judicious indictment of prison that an ex-convict has ever penned. And here now comes a Mark Tapley among prisoners,<sup>1</sup> who seeks to persuade us that his year and a half at Wormwood Scrubs was almost the time of his life.

<sup>1</sup> Frederick Martyn : "A Holiday in Gaol."

We cannot quite believe him, for he was manifestly glad to be free, but this is what he says :—

“ I have recently returned to work from the holiday of a lifetime, feeling as if I am wound up to go another fifty years on top of the half-century I already have to own to, and with a capacity for enjoyment that I don't remember to have possessed in my salad days. I have been taking the finest rest cure that the whole world affords ; I have been doing eighteen months' hard labour in an English prison.”

He adds that he is afraid his “ experiences will be found to differ greatly from any that have yet appeared either in the newspapers or in book form.” But Mr. Martyn's experiences did not differ in the least from those of hundreds of other prisoners in Wormwood Scrubs or any other large local prison. What is different in his case is merely the Tapleyan point of view.

But these cheerful pages are—for all their cheer—scarcely less an indictment of the system so lightly discussed in them than the grave and often sombre chapters of Jabez Balfour's “ My Prison Life.” Take, for instance, the infinitely vexatious problem of prison labour, which has already engaged our attention. Frederick Martyn is at one on this point with Jabez Balfour and H. J. Montgomery. Thus :—

“ If one worked the hours supposed to be devoted to labour, they would only amount to about six hours a day ; that is to say, an hour before breakfast, an hour and a half between breakfast and dinner, and three hours and a half between dinner and supper. But as there is practically no supervision

over the eighty or so per cent of the prisoners who work in their cells, they can work or not as they please during these hours, provided they manage to turn out enough work to satisfy the work-warders. As the work-warders are pretty easily satisfied, there are few prisoners work the full labour time if they can find something else to do. I never worked (or played at working rather) for more than four hours a day during all the time I worked in my cell."

In other matters besides work the supervision seems not always perfect. There was a great turning out of a ward one night, discovery having been made that certain prisoners with money at command were enjoying illieit banquets. Mr. Martyn apparently did not share these feasts, but he tells us he found time to write a novel in his cell. A gentleman occupying a cell in the same hall

"even managed to do a little flirting over the wall. One evening he shouted to a girl who was walking in the field, and struck up a conversation with her. She came many times after that, until the gay Lothario got tired of her, and told her it was no use her waiting for him, as he was 'in for life.' "

Now is this possible from a top-tier cell in Wormwood Scrubs? Very doubtful indeed, I should say. At the same serene altitude Martyn reflects on his own situation :—

"Free from all care, able to eat the prison food with enjoyment, and with practically as many books as I wanted, I had an enviable time of it and I often thought with dismay of the time when

I would be compelled to mix again in the busy world, and be worried by the landlord and the rate-collector."

Perhaps the author should have told us how he has fared since his release, for on page 130 he alludes to "two of us who had forfeited decent positions in society which we could never hope to regain." In the case of such prisoners, it is usually not so much the getting in as the getting out that matters. What was Mr. Martyn's getting out? How this question was faced by the fellow-prisoners who were to be discharged with him he tells us in his final chapter. On the eve of freedom they were all relegated to a store-room of the prison:—

"There wasn't much sleep in that store-room that night, and I learnt enough from the conversation of the men who shared the room with me to make a very interesting book. It was very instructive as to the reforming power of prisons to listen to these men who were going out into the world again, for there was not one of them who spoke of getting work. Work did not appear to have any place in their thoughts at all, and the word was never mentioned, save in the criminal sense of stealing or swindling."

An interesting, amusing, cynical book—which will hardly reconcile its readers to the cost of prison.

#### IV. THE APPEAL FROM THE DOCK—THE DESTRUCTIVE SENTENCE

I take from my notebook a few significant examples. To multiply them would be easy. The argument implied is of the simplest kind: that to the person



who has once been in prison the return there is almost natural. The blame can be parcelled (in degrees, of course, not very readily measured) between the ex-prisoner himself, the judge who condemns him, the prison that receives him, and the social organism that makes him a monster and a Caliban. The savage appeal, exultantly defiant, is (at least to the extent that my notebooks instruct me) extremely rare. The pathetic appeal is common. The tragical, mute appeal—a scrap of paper handed up from the dock—too often carries with it the worst reflection of all our systems—social, judicial, and the rest. Let me quickly add that some of the sentences here reprinted would be impossible to-day.

Richard Barr, twenty-eight, about to be sentenced at Cardiff for breaking into a co-operative stores, said to the Recorder :—

“ You have heard a record of a few of the deeds I have been guilty of. I feel proud of them ; proud of my career ; and proud also to think that the country must go to the expense of finding such a one as I legal aid.

“ My career might have been so different. What I am to-day, you, the Recorder, helped to make me. Ten years ago last Monday you sent me to prison for six months. During those six months I learnt more roguery than I learnt before or since. During that time I determined to get my own back. I have done my best to get my own back, and to do injury to others. I think I have succeeded very well.”

The Recorder gave him three years' penal servitude. John Williams, fifty-three, bricklayer, indicted at

the London Sessions "for being found in Berners Street, W.," pleaded :—

"I was only seventeen when sentenced to seven years' penal servitude. That ruined me, and I've gone on recklessly ever since."

A detective

"handed the prisoner's extraordinary criminal record for a variety of offences, including theft, burglary, and uttering forged orders:—

1863, one month's imprisonment and sent to a reformatory.

1868, twelve months' hard labour.

1869, seven years' penal servitude and seven years' police supervision.

1877, three months' imprisonment.

1877, six months'.

1879, twelve months' hard labour and five years' police supervision.

1880, five years' penal servitude and three years' police supervision.

1885, six years' penal servitude and five years' police supervision.

1889, four months' imprisonment.

1892, five years' penal servitude.

1896, seven years'.

1904, five years'.

1908, six months'.

There were also four other minor sentencees as a suspected person."

"The Judge : I recognise that you are another illustration where a young lad's life of crime was brought about by a heavy sentence of penal

servitude, and I rejoice that such sentences are absolutely impossible to-day."

"Prisoner: I am heartily glad, for the sake of young lads, I throw myself on your mercy."

Sentence of twelve months' hard labour.

An ex-convict,

"with a wife and five young children, told Mr. Paul Taylor, the magistrate, at the Marylebone Police Court, that since his release from prison in January he could not obtain work.

" 'I applied to the Salvation Army for a tattooing instrument,' he said, 'in the hope that I would be able to earn an honest living, but they did nothing for me. I went to the Roman Catholic Prisoners' Aid Society, but they said they were too poor to help me. They were willing to provide me with work in Scotland if the Salvation Army would pay my fare, but the Salvation Army did nothing. I have pawned almost everything we possess,' he added tragically, 'and I have nothing before me but to plunge into crime again.'

"The magistrate referred him to the court missionary, saying he preferred to assist old convicts rather than young ones, as they often had less chance in life."

On behalf of George Roberts, ex-convict, charged at the London Sessions with stealing postal orders from a letter-box, a singular plea was urged.

"Mr. Purcell, his counsel, said the man received eight months' hard labour for his first offence, when he was twenty-two years old, and it was the difficulty he experienced in getting employment afterwards that drove him to a career of crime.

“ ‘Your lordship knows,’ he said, ‘that in those days the judges and the public had not arrived at the principles which are now preached and practised with regard to what are called first offenders.’ ”

“ Evidence was given that Roberts had been convicted twelve times, and had served two terms of three years’ penal servitude.

“ ‘Nowadays,’ Mr. Purcell said, ‘to get honest work it is only necessary to commit a crime, because people then rally round you, give you assistance, and start you on an honest career.’ ”

It is, unfortunately, about the very last thing they do.

Patrick O’Leary, convicted at the London Sessions of stealing lead from a roof, made the following appeal for leniency :—

“ ‘All you have heard of me is rotten and bad. But, your lordship, I don’t want to be a criminal all my life. I want to get a job and work hard, so that I can become an honest man. Send me to a home, I beg you to, where I can learn a trade. That’s all I ask. Grant me this one favour if you can, or I shall be a ruined fellow. I am only eighteen now, and I want to get on. The more I go to prison the more I shall keep on going there, and the worse I shall get. Give me one more chance and you will not regret it ; I will do my very best to run straight.’ ”

“ Mr. Wallace, K.C., said he would send him to a home to see how he got on, adding : ‘ You were sent to prison when you were very young, and I don’t believe you ever had a fair chance.’ ”

Frank Seaton, twenty-three, labourer, confessed at the London Sessions to having been concerned in two burglaries at Walham Green. He said :—

“ My first conviction brought about my downfall, and blasted the whole of my unhappy career. It was my first crime, and the magistrate sent me to prison for three months. Up to that time I had always been an honest worker and a straightforward young fellow. But that sentence was my undoing altogether. When I came out of gaol, I tried to get an honest living, but I could not, for the simple reason that I could not produce references. I am not a criminal by choice or by nature, and if I can get one chance to lead a new life I will do so.”

Fifteen months' hard labour.

Here is the record of John Sullivan, thirty-two, committed for trial at Southwark for being concerned in the theft of a gramophone :—

“ March, 1882—Assault, six months.

January, 1884—Theft, three months.

October, 1885—Assault, three months.

March, 1887—Assault, two months.

July, 1887—Theft, three months.

February, 1888—Robbery with violence, nine months.

July, 1889—Assault, three months.

December, 1890—Assault, three months.

April, 1892—Robbery with violence, eighteen months.

January, 1894—Under Crimes Act, twelve months.

June, 1897—Theft, three years.

January, 1900—Failing to report, one month.

April, 1900—Theft, eighteen months.

June, 1902—Theft, twenty-two months.”

Charles Stuart, twenty-one, cabinet-maker, pleading guilty at Clerkenwell Sessions to having stolen a purse and the sum of 3s. 6d., put in a piece of autobiography. The style is perhaps a little overcharged, but the miserable story seems genuine :—

“My Lord,—I shall be very grateful to your lordship if you would kindly spare me a few moments of your valuable time to glance your eyes over this poor bit of pleading of mine.

“At the tender age of six my mother and father, who could never agree together, mutually came to the conclusion that it would be better to part. My father went, taking me with him, to a lodging-house in Dorset Street, Spitalfields—a street described by Mr. McKenzie in an article which appeared in a daily paper a few weeks back as the ‘worst street in London, being the resort of thieves, murderers, and burglars, where the criminals of to-morrow are trained to-day, where children six and eight years of age gamble in the gutters ; and where babes in arms learn to sip gin at their mothers’ breasts.’

“Such was the street, my lord, in which I was fated to pass my childhood days, amongst all the evil and corruption of that unholy neighbourhood, where neither the fear of God nor the law is felt. My life from the age of six years to thirteen was surrounded by all the evil that years of wickedness and vice could bring to bear on a mind and character like mine, naturally weak and ill-suited to bear the temptations to which it was hourly subjected. At the age of thirteen I was sent to the training-



ship *Shaftesbury*, where I spent three of the happiest years of my life. On the expiration of my time I came home on my father's advice, also on the doctor's, on account of being subject to walking in my sleep, and nearly losing my life once by walking overboard in the English Channel.

"I arrived home about April, 1897, on a Saturday. My parents and my two sisters were just sitting down to tea, and everything seemed to speak of peace and happiness.

"But how deceiving are appearances at times ! Instead of everything being as it seemed, my father was up to his eyes in debt, being in the clutch of money-lenders. The crash did not come at once. I obtained employment with the excellent character from the ship. . . . Now commenced the breaking up of the home. My father went back to Dorset Street to live. I went along with him, and my mother and sisters took a little room and furnished it with what bits of things the creditors had left them. . . . As a matter of course, I was recognised, and snapped up at once by my old companions, most of whom I soon found out had had a taste of prison. I had no inclination whatever to join my old associates in wrong-doing, being as happy at my work as could be expected under the circumstances. But all good intentions were destined to have a fall, and to bring me to what I am, and that through no fault of my own. On Sunday afternoons all the men were congregated outside one of the lodging-houses gambling. Me and another little chap, neither of us having on anything save our trousers and shirts, were eagerly watching the game when down came some policemen. . . . My friend and I were locked up, and on Monday morning the

magistrate remanded us for a week. So I lost my employment, and being flattered by my elders about having been in 'stir,' as they called prison, I began to lose my head, and thought what a grand thing it was to do as you like, to have no master, and get money without working for it. . . . Although I had eight previous convictions I have never made a practice of stealing for my living. It is only when out of work that I strayed, and my sins have found me out. If, my lord, you only faintly knew the life of temptation, misery, and wretchedness I have passed through since I was six, having no home to go to, no kind mother at hand to speak loving and gentle words to me, and so by her winning looks and pleading voice counteract the evil which we all have, some in less degree than others.

"When I had finished work for the night there was no bright fire and kindly looks to draw my mind from evil ways, but, on the contrary, a dirty lodging-house kitchen, old men and women smoking dirty black pipes, with its usual accompaniment—the curse of humanity—drink, and their language more foul than their pipes. . . . I have made a resolution, my lord, never to return to a dishonest life, and I shall take it as a great kindness if your lordship would put me under police supervision for a few years, which I am sure would deter me from breaking my resolution.—Yours (signed), Charles Stuart, alias Richard Davison.

"Eighteen months' hard labour and two years' police supervision."

Take, to conclude, the wretched cases of three old women, each of whom we may suppose to have been ruined by a first injudicious sentence.

Jane Foster, "a little old woman with hair turning grey, and a timid expression," was sentenced at the London Sessions to fifteen months' imprisonment "for stealing one skirt from the Lambeth New Cut."

"In 1873 she was sent to prison for eighteen months. Since then she has been in gaol fifteen times, generally for stealing purses.

"In 1877 she was sentenced to seven years' penal servitude for stealing a purse; in 1883 to five years' penal servitude, and other terms ranged from two months to two years."

"Seven years for stealing a purse, and a young woman!" exclaimed the judge in horror.

Annie Connor, seventy, convicted at the London Sessions of shoplifting, had spent over forty years in prison. Imprisoned first as a young girl in 1854, "she adopted crime as a profession." Her sentences included :—

1854 . . . .	8 months	1890 . . . .	1 year
1858 . . . .	3 months	1896 . . . .	1 year
1859 . . . .	6 months	1897 . . . .	3 months
1859 . . . .	14 days	1898 . . . .	3 months
1859 . . . .	3 years	1900 . . . .	4 months
1864 . . . .	7 years	1901 . . . .	3 years
1869 . . . .	10 years	1906 . . . .	3 years
1882 . . . .	10 years		

"Had a helping hand been extended to her," said the judge, "her career might have been very different."

Ellen Adams, seventy, laundress, pleaded guilty at the London Sessions to having stolen a muff in Oxford Street. A wardress from Holloway Prison said the prisoner had served the following sentences :

- " 1861, eighteen months' hard labour.  
 1864, four years' penal servitude.  
 1869, four months' imprisonment  
 1871, twelve months'.  
 1872, seven years' penal servitude and seven  
 years' police supervision.  
 1881, seven years'.  
 1890, six months' imprisonment.  
 1891, sixteen months'.  
 1893, three years' penal servitude and three  
 years' police supervision.  
 1896, eighteen months'.  
 1900, five months'.  
 1900, six months'.  
 1901, three years'.  
 1904, five years' penal servitude and three years'  
 police supervision."

Some thirty-six years of prison, and every year of it fruitless ! <sup>1</sup>

" All sentences," said Oscar Wilde, " are sentences of death."

<sup>1</sup> At a meeting in the Dossers' Chapel of the Salvation Army, a man in the audience handed this note up to the platform :—

" Gentlemen,—Since 1857 I have served the following terms of imprisonment (the dates indicate when I received the sentences) :

In 1857,	4	years	in	short	terms ;
„ 1861,	2	„	in	a	reformatory ;
„ 1864,	3	„	penal	servitude ;	
„ 1867,	8	„	„	„	
„ 1877,	12	„	„	„	
„ 1887,	7	„	„	„	

making a total of thirty-six years and three months, not counting remands and waiting for trial, which must have amounted to another nine months. I am fifty-eight years of age, and no trade. Truly, Solomon struck the right nail on the head when he said, 'The way of transgressors is hard' ! If you can do anything for me I shall be truly grateful. I would do any sort of work you like to give me. Beggars can't be choosers."

The applicant was taken to the prison-gate home.

## V. ECHOES FROM THE CELL

There is a curious unanimity in the opinions registered by ex-convicts. These men are agreed, with scarcely an exception, to condemn the system they have suffered under. An editor, seeking diversion, opens his columns to a correspondence on imprisonment, and, pell-mell, all the readers of the paper who have ever been in prison rush to his letter-box. These anonymous contributors reap no profit of their letters, in reputation or in money. They shoot their arrows, and pass : no one knows them, no one ever hears of them again. They do not think it worth while to reveal themselves—or, having put the prison world behind them, they do not dare to reveal themselves. One way or the other, they are still the pariahs. But, inspired this way or that, they have some memory of prison to disclose to us—and it is always a bitter and a hostile one.

What we know of the average of human conduct does not permit us to believe that all ex-prisoners will invariably stand to a false story. Why, in any event, should they do so ? It boots them nothing, these masked and nameless witnesses. But the immense majority of ex-prisoners are dead against the whole system that has injured and degraded them. To a man, almost, they feel themselves the worse for it. Who rises up to speak of anything wholesome or curative in the treatment ? Not an individual among them who speaks to us from the heart. Frederick Martyn (this, by the way, is not, I think, the writer's domestic name) has his tongue in his cheek when he talks to us of his " holiday " in gaol. Would he have begged leave to remain if the Secretary of State had offered to release him ? Observe him in

his cell on Christmas Day crying like a child after the warder has tricked him into thinking he will dine on roast beef and plum-pudding.

The cumulative force of the evidence given voluntarily and clamorously by educated ex-prisoners of all classes, whenever and wherever the opportunity occurs, is—to put it at the tamest—remarkable enough. Some of these deponents, like the essayist in the *Hibbert Journal*, seem to carry silently for years a burden of wracking thought relating to the past, and then, in an intolerable hour, discharge it on us with unrestrained intensity of wrath. One and all they proclaim themselves men whom prison has undone.

An ex-prisoner, vouched for by his editor as “a man of distinction who has served a long sentence,” writes in the strain of Montgomery :—

“With all our vaunted progress and humanitarianism there has been no real progress in prison reform during the past fifty years; and in some respects the prisoner’s lot is relatively worse now than it was half a century ago. For although his physical conditions have improved, his social, moral, and psychical conditions have not advanced correspondingly with the onward march of civilisation and humanism; and it is little exaggeration to say that modern English penal servitude is a systematised barbarism, and it is only its esoteric occult administration that saves the prison system from being doomed. And were it exposed to the public view in the same way as the other departments of the public service its effete and inept system would not last a day.”



He speaks of the kindness of warders, and says that "the medical department . . . is deserving of the highest praise."

An ex-prisoner, who writes from "one of the largest cities in the United States," and informs us that he is now—thanks to a reversion—"a successful man, not a goody-goody one by any means," says :—

"I do not think I should be over-stretching the mark if I said that ninety-nine out of every hundred convicted criminal prisoners leave the prison at the end of their sentence far worse men than when they first entered prison.

"I know that in my case prison has hardened me, made me callous, left me without any feeling or care for my fellow-man."

He served four sentences, during the second of which "my wife went to the dogs."

"Z. 619," described as "the last survivor of the famous gang of forgers who a generation ago succeeded in obtaining £250,000 from the Bank of England" (many students of criminal history will remember this case), says :—

"The only lesson I learned in prison was submission. The punishment I got I deserved, and I have no complaint to make of any personal injustice. It is the system that is at fault, inasmuch as it punishes without helping a fallen man to regain his self-respect. Many young men who go into prison for one slip are ruined morally within a short time of entering prison. The evil companionship, the degradation of the life, and the shipwreck of all future hopes work the mischief."

“ C. F. 391 ” says :—

“ I am an architect and surveyor by profession, and could have given very material help in the preparation of working drawings and the taking out of quantities, etc., but my abilities were pushed aside, and I was condemned to work for the greater part of my time quarrying. This I had to pick up as best I could.

“ From time to time I was taken from this and put to stone-breaking, and ultimately I was transferred to the building party and set to mason’s work without any tuition whatever. Now, during the five years of my incarceration I could have become a skilled worker in any trade if the system had provided for it, but I am cast upon the world, so far as the authorities are concerned, either to fall back into old courses or to become that even worse individual, a social derelict. There is no country in a highly civilised condition which treats its felons with such abject parsimony, or exhibits such callousness as to their welfare.”

These illustrations could be piled up to weariness.  
“ All sentences are sentences of death.”

#### VI. HIBBERT

Let me again glance at the article in the *Hibbert Journal* on which, in the opening chapter, I levied a paragraph or two. The anonymity of this ferocious criticism is of no great importance, since the whole indictment of penal servitude is manifestly from the pen of one who, as he says, “ Has Suffered It.” In a fair-minded society no ex-prisoner would be under the necessity of suppressing his name in a history of his

prison life. He would be able candidly to say : " I have suffered this at your requirement, and now I will tell you what your punishments are like, and what they are worth." But the ex-prisoner recognises himself for a pariah, and, unless it be made well worth his while, he will tell his story, if he tells it at all, as one who has passed from the category of the known—almost, it may be added, from the category of the living. The editor of *Hibbert* informs us that he has " taken all the means open to him, by personal interview and otherwise, to ascertain the *bona fides* of the writer of this article." He adds that he himself is personally satisfied, and indeed every one who has studied the conditions of penal servitude will at once recognise the general accuracy of these statements by " One Who Has Suffered it."

It would, however, have been well had he told us at what date he was sentenced and in what prison or prisons in Australia he served his time. I have had occasion recently to examine reports of the Comptroller-General of Prisons in New South Wales, and cannot but think that the present administration there is intelligent and efficient.

But the principal counts in this writer's charge are echoed by a legion of other writers. It is no new accusation that imprisonment is a school of crime. Lombroso, among modern criminologists, insisted from the outset upon this. The convict is hemmed round by evil. He breathes an evil and poisonous atmosphere ; his task-masters and other officers excepted, he is in contact solely with felons like himself. This is not the *milieu* in which any lesson of good can be learned. The man is degraded from the moment that he enters prison—degraded in the loss of his name, in his clothes, in the silence that is

imposed on him, in his compulsory tasks, in his absolute dependence on the will of others, in every detail of his sordid daily round, in the bare and narrow walls of his living-place. He hears of crimes that he has not known of before ; he hears them vaunted. As for the work that he is put to, because he has had no choice in it he probably grows to hate it ; the trade he has learned in prison—if he has really learned one—will always smell to him of prison, and he will not go back to it. It is very likely that in the course of years many convicts with no grievous moral twist fall into the habit of regarding a criminal environment as their natural and proper one, and of speculating on the future in terms of crime. They know, alas ! that the cold shoulder will be turned to them on their release. Undoubtedly society helps prison to transform its prisoners into professional criminals.

There is another point of high social importance. Imprisonment, says the writer, creates “ harlotry and adultery.”

“ Women and children are left practically destitute, to maintain their ground, or to drift as may happen. Drifting is easy for women and girls suddenly deprived of their breadwinner. Many do that which is easiest. There may seem at the moment no other way to avoid famishing.”

In the *Law Times* and elsewhere I have frequently pointed out that something is owing from the State to the women and children whom the convict leaves behind him. These are always punished through the punishment of the breadwinner, but no one can tell us by what right they are made to share his penalty. Is it clearly understood that wives and daughters

must sometimes sell their virtue because a man has been condemned to penal servitude ?

As to what is briefly said in the *Hibbert* article concerning imprisonment "as a cause of immorality in prison," this could be discussed properly in none but a medical journal. It glances at facts that are perfectly well known to governors, doctors, and warders of every convict establishment. Both by governors and by doctors the subject has occasionally been mentioned to me. Anyone will understand it who realises in imagination the absolute non-naturalness of a convict's life.

The literary skill of "One Who Has Suffered It" no doubt lends weight and dignity to his indictment ; but if the qualities of artistic colour and emotion be overlooked, the statement does not materially differ from those of many other ex-prisoners.

And—once again—what is to be said for the prospects of the ex-convict on his return to the world ?

"He leaves the prison with every faculty of his intellectual and corporeal organisation seriously weakened. He may have heart disease ; is prematurely aged ; possibly imbecile ; a settled dyspeptic ; his constitution is undermined ; his understanding is dulled ; and, likely enough, he has also been transformed into a moral wreck. He is woefully behind the times. . . . How is he to wrestle successfully with alert, informed, unhampered competitors in the winning of a livelihood ?"

If, with these enormous disadvantages, he could still rely upon the countenance and help of society, it would be hard enough for him to win his way up again to a decent and safe position. But, with the

hand of the world against him, how are his impediments multiplied !

The point, however, for immediate consideration is that here once more (from an anonymous pen, it is true, but in a periodical justly respected) we have a thorough and deliberate and well-sustained attack upon the whole system of penal servitude. Again and again the principles of this system have been denounced ; but the mass of accusations on the subject is probably nothing in comparison with what could be produced, if every intelligent ex-convict had a ready pen and a fair channel of communication.

#### VII. THE MALINGERERS

One of the ugliest things in the life of prison—the great convict establishments more especially—is the prevalence of malingering. Men in whom the sense of decency has been killed feign an illness of some kind (*fictitious* malingering), or exaggerate a real ailment (*factitious* malingering). The confirmed malingerer is the terror, or at least the bugbear, of all prison officers, and of the “medico” in particular. Thanks to him and his devices, prisoners who need the doctor’s care are apt to fall under suspicion, for nowadays no sickness in prison is ever taken on the mere word of the prisoner.

A convict sits in his cell diligently and painfully biting a piece of tissue out of his ankle. Another makes a wound in his arm and thrusts into it an inch or two of cobbler’s thread. A third is at work on an elegant ulcer in his leg. A fourth is practising fits. A fifth is trying to be dumb. A sixth has a notion of stiffening a limb by persistently flexing or extending it. A seventh devotes himself to starvation.



An eighth studies insomnia. A ninth goes for insanity. A tenth commends himself to a safe mode of suicide.

These are the malingerers.

Almost everything in prison has its grimly or pitifully humorous aspect, and my friend Dr. Tennyson Patmore relates how, when he was at Wormwood Scrubs, he received a convict from another prison, "with a minute account of the grave epileptic fits which, day and night, seized the unfortunate man"; and the prisoner himself gave such exaggerated accounts of his sufferings that he at once came under suspicion of malingering. The doctor laid a trap for him. It was arranged that a "clinical lecture" should be given on the case, and a specially selected audience (of convicts) was brought together in the infirmary, on the express understanding that "no signs of amusement should be betrayed by any of the observers, however ridiculous the lecture might appear to them." A grave burlesque lecture was then delivered by the doctor, who feigned to believe that the case was one of the most extraordinary and alarming he had ever come across. Next, the patient was put most carefully and tenderly to bed, and the doctor, in his hearing, solemnly remarked that there was "no medical treatment available for such a case save a protracted course of very low diet." Now, in the prison he had come from, the "epileptic" had been sedulously pampered, and a "very low diet" was precisely the last form of treatment he had expected to receive. In less than a week he arose from bed a thinner and a wiser man, pronounced himself "entirely cured," and—never to the end of his sentence had another epileptic fit.

Grotesque enough, no doubt, some of these cases are; many others are merely loathsome; and it is,

I fancy, a somewhat serious reflection upon the general conditions of life in prison that hundreds of convicts spend almost the whole of their time in unmanly, debasing, and self-injurious efforts to procure their release, or even to effect the change from cell to hospital. To every one in prison these things are well known. No officer, I believe, would hesitate a moment to admit them. Malingering, a persistent and permanent disease of our prisons, is taken in them as a matter of course.

Some prisoners themselves hold the malingerer in thoroughgoing contempt. They despise him as a weakling or a coward or a simple nuisance. But the common sentiment of prison is not, I think, against him; and the master at the art of faking, who ends by besting the doctor, and getting a turn in hospital, or a spell of light labour, or an infinitesimal change of diet, is praised and envied as a "wide" or clever customer. The resolutely cheerful, industrious, and obedient convict is in his way a very admirable fellow; and a right mode of handling this convict in confinement would perhaps transform him into a pattern citizen. But we have not got near to the right mode. "The prison system is all wrong,"<sup>1</sup> and since there is nothing in it to give life to that sentiment under which, in a free and healthy existence, every shirker and malingerer is condemned by every honest earner, comparatively few convicts reprobate the fellow-lag whose days are a protracted and often a disgusting sham. For the out-and-out malingerer sticks at nothing. Certain of his practices, when he has finally sloughed the man and taken on the beast, might, in a medical journal, point an argument against

<sup>1</sup> Wilde's "De Profundis."

long sentences of imprisonment; in pages non-scientific they would scarcely be recognised as human.

In other cases the feigning of disease will presently induce a true pathological condition; the incorrigible malingerer becomes a subject for the asylum or the hospital for incurables. Dr. Patmore remarks that "a voluntary abandonment of inhibition, with a long continued simulation of maniacal manifestations, may render the resumption of normal inhibition impossible, and so induce a really lowered intellectual calibre; and also a protracted intentional simulation of dementia, with disregard of personal cleanliness and of all the decencies, does certainly at times conduce to a real permanent mental inertia. A limb long disused will atrophy, and so will the cerebro-spinal centres lose tone by prolonged disuse." It is this positive danger to the malingerer himself that keeps the doctors of prison on steady, anxious watch.

For anything and everything at the hands of the malingerer they are at all times prepared, and half their time is taken up with examinations, inquiries, and experiments that the ordinary practitioner knows nothing of and would hardly understand. "Almost every description of subjective and objective ailment has been feigned or produced": malingering is in the day's work on the convict's part, the detection of it is in the day's work on the doctor's part. This repellently abnormal situation is absolutely normal in prison!

I have shown that the resolved malingerer may filch something from his health. He is likelier, in the long run, to filch something from his comfort. A few years back, the heroic artists in this line, yielding to no other measures, could be flogged on

an order of the visiting justices. This penalty is no longer at command, but the doctor has shots enough in his locker. On suspicion of malingering he can prescribe what remedies he pleases, and the battery at his disposal is more than equal to most of the fakes he has to deal with. By electricity, medicines, douches, and surprises in food he can put very unpleasing questions to troublesome malingerers ; and, as there is always in the background the possibility of an epidemic of malingering, he sometimes rubs it in warmly to a leader in the business.

But the game continues ; sustained by the convict in the hope of circumventing the doctor, and by the doctor in the double endeavour to keep down sickness and keep up discipline.

The atmosphere of prison is propitious to malingering. In the army, in the navy, and in public schools this vicious habit is not indeed unknown ; but in none of these spheres is it rife, as it is in prison. Here, where a man's whole estate is artificial, where he exists upon terms remote from all civility, where life, in brief, is a mere accumulation of ills, the temptations to sink lower and yet lower in the moral scale are not easily resisted. Slowly or swiftly prison encourages a man to derogate from manhood. Its entire scheme of discipline, from A to Z, is grounded in distrust of the individual. Men thus regarded—will they not try in all ways to flout discipline ?—lie and cheat and fawn and sham, till they are beneath the level of the system that has vitiated their very natures ? A process of punishment that kept before the prisoner the simplest ideals of personal dignity, honour, faith, conduct, and submission to equitable rule would tend to make malingering impossible.

In the utter deadness of the convict's life, penalties themselves are sometimes welcomed as a stimulating change. The malingerer takes his chance. He stands to lose something, to gain something; the prospective profit is worth the risk. Rouse him in the grandly simple way that Mrs. Booth has learned, show him that the convict does not cease to be a man, and he will quit these unclean tricks. It is nothing to the credit of the prison system that under it we are breeding successive generations of malingerers; that the malingerer himself, everywhere else by every one's consent an unsocial rogue and wastrel, is in gaol commended in exact proportion to his prowess as a swindler.

#### VIII. PRISON MAKES THE PRISONER

Our system of imprisonment is an ideal means of spoiling the offender. It unmakes the man and the citizen, it aids in the making of the wastrel and the criminal. By the stigma it imprints on every prisoner he is rendered little less than infamous. Branded almost as effectually as the slave who carried the seal of the marking-iron, the chances are that he will and must return to the place where the brand was inflicted. Sixty-six per cent of recidivists!

Prison is the tragi-comedy of our day. The convict is the tragic comedian. "Our very dress makes us grotesque," said Oscar Wilde. "We are the zanies of sorrow. We are clowns whose hearts are broken. We are specially designed to appeal to the sense of humour." The prisoner's whole existence is a kind of dull burlesque on life. Here, in a convict establishment, are some hundreds of imperfect citizens whom we are pretending to reclaim by rigorously depriving them of everything that citizen-

ship implies. We shave their heads and dress them up as guys, close their mouths, march them hither and thither in dumb droves, feel in their empty pockets three or four times a day, stand them with their faces to the wall, harry them with reports, dock them of hard-won marks for a word or a frown, stop their little treat of a letter or a visit for some slackness at work or a grumble over doubtful meat, and at stated hours look them into cells where the warder with his eye at the peep-hole can keep them perpetually under watch.

Is this rational treatment for a grown delinquent ? Is it the way to reclaim him ? Is it not rather the way to make a pattern prison man, the type well known wherever convicts are found—a very undesirable character, yet one to be pitied rather than condemned, since it is the place and the system that have reduced him to what he is ?

But there are, of course, worse things in prison than its sordid pettiness, and the utter monotony that turns existence there to one long winter's day. The absolute separation of the prisoner from the world outside his silent gates cannot but be deeply injurious. Every year that he passes within those gates takes something from his fitness as a citizen, a worker, a responsible individual. For, once in prison, all relations with the world beyond are abrogated, and no other mode of living has been devised that departs in so many particulars as penal servitude does from any recognised and tolerable norm of life elsewhere. It is a circle of all the dead. Why, if a prisoner, seven years in Portland or Dartmoor, should find one morning in his cell at the dinner hour a copy of the day's newspaper, with its multifarious tidings of both hemispheres, he would be affected, I think,



very much as a congregation in St. Paul's Cathedral would be by the opening of the seventh seal.

The occasional letters that a prisoner may receive (naturally there are prisoners who never get a letter of any sort) are first read and edited by the Governor or his deputy, who have instructions, I believe, to strike out any reference to public events. Every kind of knowledge of the world is diligently withheld from the convict, whose whole behaviour is regulated for him as if he were never to return to it. What wonder that when he does return he fails to readjust himself, and is usually either a nuisance or a danger to society?

Old writers conceived of deserts and the barren waste of ocean as the chosen and appropriate abodes of demons. To me it is easier to think of prison as haunted by the ghosts of all malignant beings that have troubled earth. What a hunting-ground for the legions of the disembodied spirits of the lost—if such there be! The very atmosphere of prison is heavy with evil. What subtle yet potent efflux of harm should come from every stone of a building that has never at any time held any but criminal inhabitants! And, for the criminals themselves, such a dwelling is of necessity the very worst imaginable. The natural miasma, the aerial poison of it, clings and infects year in and year out. Let the mind pause for an instant at the thought of the generations of felons by whom the cells of our oldest convict prisons have successively been tenanted. In these cells, what tears have been wept, what curses whispered, to the moral hurt of every later entrant! I may be told that the air in the fever-ward of a hospital is infected, but that patients still recover in it. Yes; but in the fever-ward the patient is in the best of places. It is every

one's business to restore him, and to this end every one is ceaselessly striving. But it is not the real business of any one to restore the prisoner, who is also, in his kind, a patient. Not cure but discipline is the dominating word in prison. The prisoner has to live by rules—in daily association with other prisoners, who are the very last companions he should be given—and the chaplain himself, if at any time his method clashes with these rules, is apt to find that he too can be brought to book by them. A good Governor can influence his prisoners, and does so ; a good chaplain can influence his prisoners, and does so ; a good doctor can influence his prisoners, and does so ; a good warder can influence his prisoners, and does so. But each and all of these healing, refining, corrective, and stimulating influences are and must be indirect and secondary in their operation. For it is the aim of prison to make not a good man, but a good prisoner.

But the system achieves one end, at any rate, with a steady and continuous success that no one outside of Whitehall ever dreams of challenging. We may fail to make citizens in prison, but we do at least make criminals. "For," says Mr. Edward Carpenter ("Prisons, Police, and Punishment"), "habit robs even prisons of their terror. However severe a system may be, it at last *breeds* its own type of prisoner who is adapted to his environment. If you live seven years without speaking or using your brain and heart to any appreciable degree, you at last lose the *need* for speech and thought and affection." And as Dr. Morrison says : "Will a prolonged course of severities and degradations confer the virtues of industrious and orderly citizens on these unhappy men ? On the contrary, the more

harshly you punish them, the more you reduce the human element which still lives in their hearts. The more you punish them, the more certainly you doom them to the awful existence of a habitual criminal."

The effect exerted on the public mind by this system of punishment is enduring. It is fatal to the chances of the ex-prisoner. Every one knows nowadays what the prisoner is in prison, what a figure of ridicule and contempt he is there. The wretched and contemptuous notion of him trickles abroad. Coming out, he passes at once under a new sentence of ostracism. Prison has weakened, humiliated, and made a scaramouch of him. He has ceased to belong to us. We have no use for him, no need of him—no room for him. He must go back to his proper habitat of prison. He goes back!

## CHAPTER XX

### THE NEW HORIZONS

1. THE push towards reform began, in Saleilles's words,<sup>1</sup> "as a purely humanitarian reaction, prompted by a sense of popular and sentimental justice." It is now the affair of a new science called Criminology, which has two determinate branches: criminal anthropology, treating of the criminal man; and criminal sociology, dealing with the social causes of crime.<sup>2</sup> We may as reasonably at this date profess a science of crime as we once timorously professed a science of medicine. An analogy, indeed, is possible. Disease, of whatever kind, was once, and for long, regarded as a visitation of heaven; the sick man had done something for which the Deity was to punish him. Crime, in its turn, was once, and for long, regarded as wilful and intentional sin; the criminal had done something that, as a free agent, he might have abstained from doing. Modern science came to realise that disease has natural causes. The science of criminology perceives that there are natural causes of crime. The cure of disease (to the extent to which it goes) has gradually found its basis in ex-

<sup>1</sup> "The Individualisation of Punishment," by Raymond Saleilles, Professor of Comparative Law in the University of Paris. London, 1911.

<sup>2</sup> "The Principles of Anthropology and Sociology in their Relations to Criminal Procedure," by Maurice Parmelee. New York, 1908.

perience. The same basis is sought for the attempted cure of criminality.

2. The notion of the curability of crime is in itself a new one. There is not in the admirable Beccaria (father of us all in the history of the reform of prison) an appreciable hint of it, nor is it talked of with any general confidence until the nineteenth century is well advanced. By the modern penal school the notion is urgently put forward, and to this school in the main the credit of it belongs.

3. The cure is not to be found in conventional systems of imprisonment. On this point are united many critics who decline to go the whole way with the extremists of Italy and France; and, avoiding arguments already used, I must for a moment return to the subject. All the world over, the State continues to favour imprisonment. All the world over, penologists are exposing the failure of imprisonment.

"The fixed belief in the virtue and necessity of prison has had disastrous consequences," says Mr. Thomas Holmes, "for the State has hitherto considered it the one great cure-all for law-breaking. It has till quite recently been the first resource of the law, instead of its last resource."<sup>1</sup>

"The autobiographies of criminals show us that far from reforming evil-doers, prison is, in reality, a criminal university which houses all grades of offenders during varying periods; that far from being a means of redemption, it is a hotbed of depravity, where are prepared and developed the germs which are later to infect society; yet it is to this incubator of crime that society looks for

<sup>1</sup> "Psychology and Crime." London, 1912.

defence against those very elements of lawlessness which it is actively fostering.”<sup>1</sup>

Mr. Edward Carpenter observes that the

“evil of recidivism must either be ascribed to the system, or to the congenital nature of the criminal. Either the criminal must be a hopeless case from birth, or the system must be very much at fault, which, instead of reforming, causes him to return again and again to prison. But as it would be absurd to suppose that the great majority of offenders are hopeless cases from birth (though this may be true of some), we are forced to ascribe the main fault to the system. In either case we may conclude that mere punishment is of no use ; since obviously in the case of defective birth it cannot apply ; and since also the system, which hitherto has been founded on the idea of punishment, has itself so greatly failed.”

The authors of the Fabian Tract state that

“The scientific study of criminal psychology and pathology and of social conditions in relation to crime, combined with an enlarging sense of collective responsibility, has made the twentieth century thoroughly impatient of the results produced by the penal reforms of the nineteenth. . . . Modern criminologists regard the attempt to combine aims so incompatible as deterrent punishment and a serious attempt to reform the criminal as the makeshift of a period of transition. . . . The old idea was that the collective force of society should be used to suppress the will and stultify

<sup>1</sup> Ferrero.



the faculties of every person of whose activities custom or authority disapproved. The modern idea is that the collective force of society should be used to stimulate and support the exercise of individual will power under a sense of personal and social responsibility, and to make every effort to strengthen and restore it where it is enfeebled or lost, combined, of course, with opportunity for the free exercise in a useful and healthy direction of such powers as the individual may possess. In a word, our present inclination towards a positive rather than a negative method for the solution of such social problems as destitution, ignorance, or sickness is extending likewise to the treatment of crime."

"One of the greatest factors in crime is the prison," says Lombroso; a statement he does not weary of reiterating. "The injustice of the present situation," says Saleilles, "is aggravated by the promiscuous intercourse of the prison, which itself serves to make perverts and to enlist them in a career of crime."

4. Deprecation of imprisonment being a theme common to all penologists (irrespective of divisions among parties), what have these critics to say about punishment itself? There is no lack of instance or precision on this head. Schemes differ; the aim does not. In terms the most general, it may be said that the whole modern school seeks in punishment something that shall correct, strengthen, stimulate, and elevate the criminal; it condemns all modes of punishment that tend to weaken and degrade him. If this line of argument has a certain ground in sentiment, it has an equal ground in economics. If

it takes account in full of the criminal whom we may possibly reclaim, it takes account in like degree of our social selves who need protection against the criminal. Saleilles, discussing what he calls the "infamous" in punishment, condemns all penalties that entail the loss of self-esteem, the thrusting down of the prisoner "to the level of those whom society has dishonoured and rejected." Punishment, "to accomplish its end, must not involve the loss of honour. It must aid in its restoration." The purpose of punishment should be not to destroy honour, but to give it back. We are to restore, as far as may be, the sense of social equality in the criminal who has taken punishment; we are certainly to do nothing to impede his social reinstatement. The retributive punishment, which has never effected anything, being of benefit neither to the victim of the crime nor to the criminal, will be gradually abandoned; law itself will become "less penal, less vengeful, less hungry for conviction and imprisonment, and more simply regulative."<sup>1</sup>

Stage by stage punishment, as punishment, being always hurtful, will lose its value for us, and modes of public tutelage (care for the criminal joining with care for the State) will take its place. "Safety with respect for the personality of the delinquent," says the Spanish penologist De Quirós,<sup>2</sup> "is what characterises criminal law reform. The desire for vengeance meets with no official recognition, and penal servitude is on the point of disappearing." At a point of time ahead of ours, abstention pure and simple (a hint of Nietzsche's) may be the note of our penal system: the future, in other words, may decide to do nothing at all with its delinquents. Awaiting this millennium,

<sup>1</sup> Carpenter.

<sup>2</sup> "Modern Theories of Criminality."

we may still find place for reasonable punishment ; at present, indeed, we have obviously no choice but to do so. But the older or classical conceptions and the newer ones travel on very different planes. "Logically defined, crime is a violation of the legally established order. Punishment is the penalty of such transgression of the law and may be looked upon as a reparation, a kind of compensation through the suffering of the individual for the injury that has been done ; as such it is what the Germans call a *Vergeltungsstrafe*. When thus considered, it is the practical consequence of a crime that attracts attention, by which is meant the social disturbance that has been occasioned, the resulting individual or collective harm of which society reflexly feels the effect."

On this principle, which takes account only of the consequences of an act, the crime itself is almost everything, the criminal almost nothing : as Saleilles says, "there would be only crimes and no criminals ; somewhat as if a physician were to maintain that there are only diseases and no patients." The law "sets the punishment in accordance with the injury done ; by which is understood only the *objective* injury. It sentences to months or years of imprisonment, or to penal servitude, or even to death, according to the material gravity of the crime. The person of the criminal is not considered. In the eyes of criminal justice the offender is but an abstract, nameless individual, as later he becomes a mere number in the work-yards of the gaol or penitentiary. Thus conceived, criminal law becomes a wholly abstract construction, taking cognisance only of the crime while ignoring the criminal."

Plainly this is not the means of attaining ideal

justice. Behind the abstractions of the law there are "living realities, human beings whose moral and social future constitutes a problem. While admitting that the sacrifice of individuals may be of slight importance in comparison with the interests of social order, it is not to be overlooked that society itself suffers through the haphazard application of a mathematical type of administration; for such punishment acts blindly, running the risk of setting free the incorrigible and the pervert, and penalising the semi-responsible and the chance offender." <sup>1</sup>

To this typically and fundamentally legal view is opposed that of the modern penal school, some of whose exponents maintain that there are "no crimes but only criminals." It is, at any rate, held by the majority of this school that punishment must be determined far less by the gravity of the crime, or the injury inflicted, than by the nature of the criminal. "The legitimate purpose of punishment is to make of the criminal an honest man, if that be possible; or, if not, to deprive him of the chance of doing further harm. For the view that punishment is an infliction of injury for injury there is substituted the view that punishment is a moral instrument, a means of regeneration for the individual as well as of protection for society. Punishment has thus a social end directed to the future, while hitherto it has been regarded only as the necessary consequence of a past act. It was appraised and described in terms of the crime committed, without reference to future issues; and this attitude resulted in making habitual criminals."

That the criminal is a fitter object of study than the crime is a concept which it has taken us above a

<sup>1</sup> Saleilles.

hundred years to realise. The eighteenth-century philosophers, Cesare Beccaria among them, were all strict in the creed that the character of the crime should be the determinant of the punishment. Beccaria did, indeed, insist that "no punishment should be greater than the crime warranted"; but for him also the criminal was "a logical object of vengeance, because he had done that which a law had forbidden him to do."

With the modern school (in its several camps) it is, on the other hand, a main tenet that the accomplished crime is by no means alone to be considered; account must be taken also of the purpose of punishment. And this purpose, as Saleilles puts it, "is not to inflict a punishment for what has been done, as if in satisfaction of a sentiment of individual or collective vengeance, but to bring about a certain result . . . it is the future and not the past, not the crime committed, that sets the goal and the purpose sought."

This is manifestly something very different from punishment crystallised by an abstract law "as a mechanical and exact retribution, ineffective in respect of the past and without influence upon the future." This, in brief, is punishment devised to yield the utmost wise return; and to acquiesce in this is to be compelled as a consequence to admit "that the punishment must be adapted to the nature of the individual to whom it is applied." The adjustment of the penalty, not to the crime, but to the criminal, is the important modern doctrine of the individualisation of punishment.

5. Now it is at once apparent that in prisons conformed, as ours are, to a standard of rules for

everybody, the methods of individualisation are not practicable. But is the *status quo*, the present condition of prisons, inevitable? It is certain that many of them are crowded with persons to whom the ordinary discipline of a prison is unsuited, and whose presence there is a permanent hindrance to any real effort at reform. Almost every prison in the kingdom contains prisoners, in greater or fewer numbers, for whom it is not the proper habitation. Lord William Nevill describes Parkhurst as "half a hospital and half a lunatic asylum"; yet this is one of our chief convict establishments. Parkhurst, it seems, overflows with prisoners officially classed at "W. M." (weak-minded), colloquially known as "balmies." In Lord William's day there were about ninety of these at Parkhurst, "and many of them were very difficult to manage, and made themselves very offensive to the other prisoners and to the officers. Most of them, doubtless, were really men of feeble intellect, or partially demented, either naturally or as the result of drink or other vices. But there were certainly not a few among them absolutely sane, who merely played the 'balmy.' . . . It is very difficult for the doctors in some cases to make sure whether a man is genuinely off his head, or whether he is only shamming. . . . The doctors have neither the time nor the opportunity to watch them closely enough." The writer adds: "There is need of a reform of the prison system with regard to weak-minded, and nothing but a knowledge of the facts is required to show what that reform should be."

Mr. Jabez Balfour says :—

"I met at Parkhurst with a special class of cases which if not peculiar to that great establishment



are certainly seen more frequently there than in other convict prisons. I refer to elderly and infirm convicts who are quite past work of any kind, and who from their age and infirmities will remain a burden to the State when they are discharged from prison. They present a curious and a serious social problem."

Mr. Holmes says :—

" Roughly, the men and women who inhabit our prisons may be classified under these five heads : first, the feeble-minded ; second, the physical weaklings ; third, the vagrant ; fourth, the casual offender ; fifth, the habitual offender. I believe that all our prisoners can be placed in one or more of these divisions, though, of course, there are variations. Should this be approximately the case, it is certain that a tremendous difficulty arises when the discipline and routine of any one prison, however well conducted, is made to serve for the whole of the classes. This is where prisons fail, and must continue to fail if the present methods are continued, for in our endeavours to administer equal justice to all classes we commit the greatest injustice ; and in our attempts to be merciful we are cruel to many of our prisoners. . . . The failure to reform must not be attributed, then, to the prison system altogether, still less must it be attributed to any lack of sympathy in the prison officials ; but rather to the two facts, that prisons are unnatural places, and that a prison population is made up of strange and motley individuals, each differing widely from his fellows in temperament and taste, in physical and mental capacity."

In "Crime and Criminals" <sup>1</sup> this question of the filling of prisons with the unfit is very thoroughly examined by Dr. Quinton, who has discharged the duties both of medical officer and of governor. Take the case of the vagrants convicted of begging and sleeping out. Some kind of labour colony is undoubtedly the place for them, but they are in and out of prison to the number of twenty or five-and-twenty thousand every year.

"Among these local prison habitual offenders," says Dr. Quinton, "there are many of such a low intellectual and moral type that they are in sundry respects irresponsible, and practically on the borderland of insanity. This class of habituais supplies the main part of that three to four per cent of weak-minded persons who are found in the prison population. The care and management of them under the conditions of a sentence of imprisonment are a source of much trouble to the prison authorities. They are for many reasons unfit for isolation in cells. They object to a regular task of work, refuse to keep their cells or persons clean; they cannot be induced to arrange cell furniture in the uniform fashion prescribed by the rules, and they are much given to whistling, shouting, and singing in their solitude, so as to disturb the quiet of the prison, and provoke other prisoners to imitate their example. They are very impatient under, if not wholly insusceptible of, penal discipline, and constantly incur reports for breaches of the rules, and become protégés of the medical officer, who has to screen them from punishment. There are several epileptics, and

<sup>1</sup> London, 1910.

there are, besides, many aged and infirm, who are in the early stage of senile dementia, as well as youths who are congenitally deficient in intellect, and whose chief education has been in criminal habits.

“The general practice in large prisons is to place them in gated cells with an officer patrolling to keep them in order, or to have them in an association ward under the care of an officer, who, by tact and patience, tries to bring them into line, and extract from their combined energy a little light work with clean and tidy surroundings. Many are quick in temper, and they quarrel with tongue and fist in an instant, often before the officer can intervene. They have, as a matter of course, a choice selection of bad language which it is impossible to keep in check.

“Many, too, have physical defects and bodily deformities which unfit them for work. Out of prison they live by thieving and begging, and they are constantly returning with short sentences for petty offences. Some are the dupes of more knowing thieves, and find their way into convict prisons; others eventually get into lunatic asylums, but many remain on the borderland, and never satisfy the legal requirements or tests of insanity. The excuses they give for misconduct are sometimes amusing. One man assaults another because he does not ‘like the looks of him.’ Another, reported for singing while at work in the ward, says he was ‘only ‘umming “’Twas in Trafalgar’s Bay,” because the man next him had only one eye and one arm, and reminded him of the death of Nelson.’

“The practice which is followed up to the

present day of dealing with weak-minded offenders is as irrational as it is discreditable to our penal system. For more than twenty years the prison authorities have been calling attention to the anomaly and the evil of sending them to prison at all. It should be patent to everyone that mental defectives, who drift into criminal habits in their struggle for existence from sheer lack of a sense of moral responsibility and of self-control, are unfit subjects for any form of penal discipline. . . . Add to the plundering of the public the cost involved in the constant repetition of arresting, charging, and conveying to prison a host of these habituals, and it will be found that every year thousands of pounds are lost without the slightest resulting benefit either to the public or to the prisoner."

Take next the large contingent of habituals furnished by the drunkards. Prisons "still swarm with these unhappy victims, many of whom in the early stage of their career, and not yet at the parting of the ways, are quite capable of being cured under proper conditions and by suitable reformatory treatment." In 1908-9 "the committals for 'simple drunkenness' and 'drunkenness with aggravations' were close on 63,000, or about one-third of the total committals from ordinary courts; and, although there were many occasional drunkards included in these figures, the greater proportion had had previous convictions for the same offence."

Then there are the criminal lunatics.

"If criminals are insane," observes Dr. Quinton, "they should not be in penal institutions—the

very name of prison in this connection being opposed to all modern ideas on the subject of insanity. Hitherto, prisons have been made a dumping-ground for every sort and variety of the general flotsam and jetsam of society which has been shot into these institutions promiscuously without any regard to fitness or ordinary justice. Prison authorities have been criticised in their attempts to classify and assimilate the motley collection, but the community has sins of its own to answer for in neglecting to sift out from the mass those who, from their limited responsibility, should not find a place in any penal institution. . . . Under different conditions, and with longer periods of detention, these wastrels can be trained to steady work of some kind, and taught profitable industries, so as to contribute to their own keep and supervision. Their disappearance from the prisons will enable the permanent staff (which is at all times, under existing conditions, so inadequate as to need reinforcement by hundreds of temporary officers) to concentrate its energies on the instruction and improvement of the reformable criminals in custody."

Vagrants, feeble-minded, inebriates, criminal lunatics, wastrels of sundry kinds ; and to this enormous list may be added the thousands of persons committed to prison because they have not the ready money wherewith to pay a fine, and the host that might be dealt with under the Probation Act. For all of these prison is the wrong place. The space they fill there is wasted ; the time and money spent on them are wasted. We might exclude from prison one-half of its whole population.

6. Were this done reformers would enjoy some freedom for experiment. Experiment needs must come; in all countries alike it is demanded. To reduce the population of prisons by one-half and to go on dealing out the old doses of discipline to the remaining half would be absurd. Moreover, experiment is now bravely in progress, under different governments, in different climes; there is nothing in the prospect that need daunt us.

I have shown a little of what strikes me as best in the United States. Let me select in other countries a few illuminative instances, tending all to show that prison itself, rightly managed, may be a powerful agent of reform. And first in South America, which might be thought not the likeliest province for effort of this kind.

There is in Buenos Ayres one of the finest prisons in the world. It is the *Penitenciario Nacional*, an institute whose inmates comprise adult offenders of almost every type. The *Nacional* was opened a few years after the Reformatory at Elmira, in New York, and its founders were not above taking a hint or two from the thrice-intelligent Mr. Brockway.

Signora Ferrero, who took the *Nacional* in her extended pilgrimage abroad, writes:—

“Externally it has nothing in common with the gloomy European prisons. It is a large white edifice with a broad flight of steps leading to the street, and is devoid of all signs of force—soldiers, sentry-boxes, etc.

“After passing through a wide vestibule, I reached a large, shady courtyard with low walls almost hidden beneath a wealth of flowers and foliage. A corridor opening on to the courtyard



was flanked on each side by a row of open white cells, each well lighted by a fair-sized window during the day and by electricity at night. Each cell is furnished with bookshelves, a table with paper, pen, and ink-stand, and a chair. All the corridors, which are gay with plants, converge towards a central glass-room, whence the sub-inspector surveys all the radiating corridors under his jurisdiction. Each corridor ends in a workshop, where printing, lithography, shoemaking, metal and steel work are carried on, and between the corridors are garden plots, in which fruit, vegetables, and flowers are cultivated. The workshops are reckoned among the best the Republic contains. The printing office turns out many weekly papers, illustrated magazines, and scientific and literary reviews. Foot-gear of the finest and most elegant quality is manufactured in the shoe factory, and the foundry and workshop produce lathes, boilers, industrial and agricultural machines and implements. All the cooking in the Penitentiary is done by steam, and the plant is installed in a large building erected by the prisoners themselves."

Every convict receives wages, which are about equal to the standard in the trade he is employed at. After work (and "a substantial supper") the prisoners are divided into nine classes for school tasks, which include geography, history, languages, and drawing, and they may then go to the library for recreative books. "Instead of a weekly newspaper like that published at Elmira, intellectual development is stimulated by means of lectures delivered each week by the prisoners or their teachers, and attended by the director, vice-director, and all the convicts."

Here, at the Nacional, the work is both useful and interesting. Its directors, one may suppose, have no trouble with trade unions, and are consequently able to make their own programme. In the way of wholesome and delightful recreative work there is, of course, nothing to equal gardening, and these "garden plots in which fruit, vegetables, and flowers are cultivated" may be compared with Dr. Cooley's sun-chambers for the refractory. Our own prison yards are principally hideous. In the grey and naked courts and quarries of Portland, on a blazing day of summer, I had to slink into a corner behind a warder's back and light a cigarette to warm myself.

Steps to the front, so far as prison itself is concerned, have been taken also in Saxony and Denmark. Saxony has gone some way on the lines of individualisation. Individualisation implies, in Lombroso's words, certain "special methods of repression and occupation adapted to each individual," as a physician acts "in prescribing dietary rules and special remedies according to the temperament of each patient." Thus, in Saxony (Zwickau) they have "special prisons for the old and for the young, for heavy penalties and for light ones," prisons in which, "according to the merits of each prisoner, his food, his clothes, and the severity of his penalty are changed." A system of this sort would be adapted only to a prison of moderate size in which every officer from the governor downwards had his particular niche; but I look, of course, to a diminished population of prison to furnish opportunity for experimental reform work in the spheres both of humanity and of economics.

In Denmark a strictly graded system begins

severely enough. The convicts (I quote from Lombroso's "Crime: its Causes and Remedies")

"remain in their cells night and day, and work there for their own advantage. The incorrigible prisoners and the recidivists, after six years, live in common in a special prison, and have no other reward for their good conduct than the freedom of working in the fields near the prison. Those who are young and can still be reformed, or those who are convicted for the first time for a minor offence with a sentence of from three to six months at the most, remain in a special cellular prison. They are divided according to their conduct into different grades. In the first (from three to six months) there is absolute seclusion, instruction in the cell, work without pay, and only writing on the slate allowed. In the second grade (six months) they receive two shillings a day for their work, are taught in school but separated from others, can have paper on holidays and books every fortnight, may purchase with half their pay a mirror and an almanac, may write letters and receive visits every two months. In the third grade, which is twelve months at least, they receive three shillings a day, have books or paper every week, are allowed to buy many useful things and send money to their families, receive visits every six weeks, and may have the portraits of their families. In the fourth grade they get four shillings a day, and besides other advantages which are more and more conceded to them, they can go out of their cells, work in the open air, and have flowers and birds. Their sentence may be reduced for good conduct, a sentence of eight months to six, of three years to

one, and of six years to three and a half. Thus they pass from absolute solitude to solitude at night only, from absolute silence to work in the field and an almost complete liberty."

Lombroso, who never weakens into sentiment, throws out a few pertinent remarks on the systems of Saxony and Denmark. We need be under no illusion concerning the best of systems, for under the best we shall still receive our due percentage of failures. But, says Lombroso, we may egg the convict on, always with the notion of building him up and restoring his self-esteem. "Good results may be obtained by instituting a kind of decoration and merit and demerit marks. The prisoners must be permitted to pass according to merit into the privileged classes, where they can, for example, wear ordinary clothing and a beard, ornament their cells with flowers and pictures, receive visits, work for themselves and their family, and, finally, catch a glimpse of the much-desired perspective of temporary liberty." This, a plain policy, would twenty years ago have seemed fantastic, and is still, in some particulars, twenty years ahead of the designs of our own Commissioners.

But it is Ireland, in the middle of the nineteenth century, that presents us with the most alluring picture. I speak of the Intermediate Prisons, established about 1856 ("in the face of enormous difficulties") by Captain Sir Walter Crofton, vigorously aided by the Lord-Lieutenant, Lord Carlisle. The best compendious account of this enterprise that I have read is contained in an article published seventeen years ago in the *Westminster Gazette*.<sup>1</sup>

<sup>1</sup> November 14th, 1895.

The report of the Asquith Committee had just appeared, and the author of the *Westminster* article notes the "cautious" approval bestowed by the Committee on the Crofton scheme. Sixteen years earlier, in 1879, it had been commended by the Royal Commission presided over by Lord Kimberley.

"Circumstances could hardly have been more difficult or material more unpromising for such an experiment. Prisons were overerowed, education of convicts almost totally neglected, transportation had ceased, for even West Australia had just refused to take any more Irish convicts, although still willing to receive those from England. For the future, hundreds of convicts must be discharged annually on Irish soil, and the problem was how to render such a proceeding innocuous to the general community. It was to solve this problem that intermediate prisons were started. These establishments were the half-way house between the convict prison and the world; leading strings before perfect liberty. It was felt that characters earned here would be worth something, and time proved that the directors were right."

Two establishments were started. At Smithfield, Dublin, use was made of an old, derelict prison; and on a common at Lusk a farm was laid out.

"To the former were sent those who, having gone through the usual penal treatment and earned a good prison character, wished to work as tradesmen, such as coopers, shoemakers, tailors, carpenters. While the cellular arrangements were retained for sleeping purposes, nothing else could remind anyone of a prison. Workshops, dining and

lecture halls, well-kept gardens, all gave the appearance one would expect to find in a modern model reformatory school. The 'Governor of the Prison' was replaced by a 'Superintendent of the Establishment.' Instead of an individual food allowance, meals were laid as for ordinary workmen, and each helped himself, with due regard for his neighbour, conversation all the time being free and open."

Every convict had sixpence a week for pocket-money. This he was at liberty to spend on any innocent indulgence, which was

"obtained in the following extraordinary manner. Once a week these convicts were allowed to select, with the approval of the superintendent, one of their number, and this man collected up the money, took a list of the commissions, and started off quite unattended into the streets and shops of Dublin to execute the orders entrusted to him; often he had a pound thus in his possession, but never once was the confidence abused, although it is upon record that on one occasion the temptation of a public-house proved too great, and the 'intermediate man' entered it, but spent his own sixpence only. Still it was a breach of trust—he had been tried, found wanting, and he was at once returned to the ordinary Convict Prison. This was an invariable rule in any case of misconduct, for punishments were not inflicted in the Intermediate Prisons. It was the duty of another man to take the official letter-bag to the Castle, and it was quite a common thing to see several of these intermediate men walking through the city with one officer in charge on their way to execute repairs in other prisons,



each with his workman's bag slung over his shoulder."

There were few tradesmen, however, among the Irish convicts ; most of them were tillers of the soil, and to the soil they clung. [Parenthetically, I may say again what I said in "Kilmainham Memories" sixteen years ago, and what, as an Irishman, it is always pleasing to me to repeat : There is hardly any crime in Ireland. The great guilds of crime in this country, represented at such establishments as Portland and Dartmoor, in Ireland are utterly unknown. So far as habitual crime is concerned, no other country in the world is half so decent as Ireland. Ireland's crimes have always, or nearly always, been peculiar to herself, arising out of agrarian evils or deep-seated political discontent.] It was for the tillers of the soil that the farm was laid out at Lusk. In two large iron huts, erected at a cost of £350 each, the prisoners

"became, and were treated as ordinary workmen ; drained, ploughed, and sowed during the day ; read, smoked, attended classes, and took part in the organised discussions of an evening. The farm had no walls, there was no military or constabulary guard ; the few officers required were, like the convicts, in ordinary working clothes ; on Sundays the entire party attended the village churches with the ordinary congregation. Moral control had entirely taken the place of walls, locks, bolts, and bars. Each man received 2s. 6d. per week, he was encouraged to put it away, but was allowed to spend it if he so desired. They were trained, and well trained, in that particular form of work they desired to 'take up' when their sentences expired. They had learned to practise

self-denial, to resist temptations similar to those they would daily meet with in the world."

Thus uniquely has Ireland written herself into the history of penal reform. Within the limits of the United Kingdom, in respect of the treatment of adult criminals, I recall no other instance of true and thorough-going individualisation. The word itself is found (it may be for the first time) in one of the reports of Mr. Organ, "at once the lecturer, teacher, and friend of every convict" in the Irish Intermediate Prisons, to whose "marvellous energy and personal zeal" the writer of this intensely interesting article pays a high tribute. "*Individualisation*," said Mr. Organ, "has always appeared to me the greatest aid to success in the reformation of a criminal. Its importance cannot be overrated; to deal with them in the mass would be a grievous error."

This Irish scheme has been acknowledged and eulogised abroad. Lombroso (writing as if it were still in progress) mentions it as having "won so much applause"—presumably among foreign penologists—and adds that while we are reduced to the "mournful expedient of a prison" this is the way improvement lies.

"When the officials felt that still greater liberty was not likely to be abused, the man was sent out into the world with a ticket-of-leave, which could at any time be revoked if his conduct was not completely satisfactory.

"In two years 547 male convicts were released on these terms, and only twenty-two had to be recalled; a really remarkable result when it is remembered that, only four years before, the Government of West Australia had refused to

receive any more Irish convicts, on account of their misconduct and unfitness for the social life of the colony.

“In order to test the real value of these returns, a searching individual examination into each case discharged during a subsequent year was ordered. It was found that during the year 159 had received a licence; 34 had, by the help of their savings, paid their way to some colony; 15 had gone to England or Scotland; 1 had died; and 106 were found, on the admission of the police, to be really doing well in Irish employment of some kind; only 3 had their licences revoked.”

This grand experiment had no bankrupt termination. So decisive a break with tradition would not easily conciliate officialdom, but we read of the “enthusiastic co-operation of all ranks engaged,” including the convicts who were or had been wards of Sir Walter Crofton and Mr. Organ. And the scheme went on.

“No one pretended that it could long flourish under ordinary unsympathetic routine administration; nevertheless, for a quarter of a century after all concerned in its foundation had departed from official life, Lusk remained, a monument of what had been, eventually closing its career because Ireland could find only twenty-five convicts eligible for its special treatment, as against over 300 when first Intermediate Prisons were opened.”<sup>1</sup>

<sup>1</sup> In Ireland at the present day there might be even fewer prisoners for another venture in individualisation. Of the two large Dublin gaols, Mountjoy and Kilmainham, the second, which witnessed the closing scenes of the Phoenix Park tragedy, has recently been closed. There were not in Dublin and the adjacent counties criminals enough to fill it. Could we borrow Kilmainham for a new Crofton-Organ experiment?

In the United States, in South America, in the little kingdom of Denmark, in a northern region of Germany, and in a semi-historical experiment in Ireland the best is displayed that prison, as prison, has to offer us. Not only, in their several ways, are these examples the best ; they submit themselves as models for our own imitation. Combine them and select from them, and we shall understand something of the meaning and the possibilities of the individual treatment of criminals in captivity.

7. Mr. Carpenter has recommended the immediate conversion of all our prisons into Industrial Asylums. This seems infeasible ; perhaps it is scarcely necessary ; but industrialism should unquestionably take the place of militarism in our prisons, and wherever trades are taught in them teaching and plant alike should be of the best. The fault of most prison work (and instruction) is amateurism.

But work, intelligently and thoroughly organised, is among the great remedies. Work, not punishment, is the thing.

“ Work ought to be the first care and the highest aim of every penal institution, in order to awaken the energy of the prisoner and give him the habit of productive labour, necessary after his liberation. . . . In every way the work ought to be proportioned to the forces and instincts of the convict, who, if he has accomplished as much as he is capable of, although that may be little, ought to receive a proportionate reward, if not in money, at least in the shortening of his sentence.”<sup>1</sup>

Crofton was of the opinion that the prisoner's work should be regarded by him less as a task than as a

<sup>1</sup> Lombroso.

privilege ; even that it should be asked for by the prisoner (after a period of cellular detention in a state of boredom) rather than imposed by the director. This ingenious notion has Lombroso's countenance.

The Labour Colony, as it has been exemplified in Holland, Belgium, and Switzerland, is capable of large developments. Where these colonies are rightly managed the vagrant disappears. Holland, the pioneer country, "has demonstrated that by this system the streets and highways can be rid of tramps, and that the cost of doing this through the agency of labour colonies is relatively small."<sup>1</sup> Indeed, these organisations can be made to pay their way.

A significant object-lesson is the immense colony of Merxplas, in Belgium. In this institution, which is industrial rather than agricultural, from five to six thousand vagabonds are engaged in almost every variety of trade. "It was among the vagabonds," says Mr. Kelly, "that were found the architects who drew up plans for the buildings, the draughtsmen who furnished the designs for their carpets, and the sculptors who modelled the statues that decorate their chapel." There seems to be more of discipline than of reformation at Merxplas, more of compulsion than of co-operation ; but in a colony of such vast proportions these defects are inherent. None the less, Merxplas is important as an instance of the results that may be obtained from the labour of the heterogeneous vagrant class. Moreover, the tramp has vanished, it is said, from Belgium.

The Swiss have created two kinds of labour colonies—forced-labour colonies for criminal vagrants, and free-labour colonies, "the doors of which are open to

<sup>1</sup> Edmond Kelly : "The Elimination of the Tramp." London, 1908.

all indigent persons who are not culpable." To one or other of these a magistrate can forthwith assign all vagrom persons who come before him, "leaving the ultimate disposition of the vagrant to depend upon his conduct in the labour colony itself." The colony of Witzwyl, directed by a skilled farmer, Mr. Otto Kellerhals, not only pays its expenses, "but, by a very simple method, reforms all those capable of reformation." It is essentially agricultural. The workshops "are purely secondary, the object of them being to utilise the services of those who are specially fitted for industrial work, those who are unfitted for agricultural work, and even the agricultural labourers during that part of the day and the season in which it is impossible to work in the fields." Joined to Witzwyl, a forced-labour colony, is the free-labour colony of Tannenhof (both colonies controlled by Mr. Kellerhals); and inmates of the first, their term expired, are offered the choice of passing on to the second, or of establishing themselves in one of the many small colonies that have sprung up in the neighbourhood. In these sub-colonies the inmates earn enough to put by a portion of their wages, and are gradually prepared to re-enter the open labour market.

"There is," says Mr. Kelly, "one feature of Tannenhof which ought not to be lost sight of: practically all the inmates do some work; the old men drive carts, care for cattle, do light gardening, pick vegetables; and it is the experience of the director that they are much happier when so engaged than when allowed to remain idle."<sup>1</sup>

<sup>1</sup> See also an excellent article on the same subject ('A Self-Supporting Penal Colony') in the *Nineteenth Century*, by Miss Edith Sellers; and, of course, the Report of the Departmental Committee on Vagrancy.



Were it asked where we should find sites for labour colonies at home, Professor James Long would doubtless furnish the reply. In a communication to the *Chronicle*, "Unemployed Land for Unemployed,"<sup>1</sup> he points to the "untouched and untilled millions of acres of land" in Great Britain, "so large a proportion of which is able to respond to the spade and the plough." If it be objected that much of this is stuff of the barrenest, the answer is, So much the better! This is the very soil for cultivation in labour colonies. To set the free workman on the reclamation of bad land is perhaps indifferent wise. But in labour colonies, where labour commands but a poor return, and where it is cardinal in our scheme to seek the reformation of the worker by giving him the habit of industry, this would be a policy of the soundest.

8. There is talk once again of transportation. France has long laid her penal station in the tropics. We ourselves sent our last batch of convicts to Australia in 1867. Mr. Jabez Balfour in the closing chapter of "My Prison Life" advocates the deportation of incorrigibles, and selects St. Helena or "the more salubrious tablelands and highlands of Africa." Lombroso condemns severely (and not causelessly) a great part of the French system in New Caledonia, but concludes that "occasional criminals and criminal by passion" may be transported. It is generally agreed by penologists who favour any plan of transportation that it should be for the term of life, that the sentence of banishment should be irrevocable.

The whole question is one of great practical difficulty—therefore also, of course, one of high prob-

<sup>1</sup> October 5th, 1908.

lematic interest. Given a small number of criminals with whom every other device had failed, it would be possible (and perhaps not unpermissible) to despatch them to some wild and unhealthy region where all the chances of life would be against them. It would be equally possible (and perhaps equally permissible) to relegate them to some wild and healthy region where the primitive, elemental qualities surviving in them would have a sporting chance of battling it out with nature. Lombroso's atavistic criminal might thus once again be pitted naked against a naked world.

Turning the case upon ourselves, deductions from the history of Botany Bay are no longer, I think, of much importance. The stars in their courses are nearer to us now than was the Australia to which, in 1788, Captain Phillip carried his first cargo of male and female convicts. Nothing that happened in Botany Bay (or Port Jackson) could happen again; but, when we have written the worst about our earliest failure in transportation, we are still to remember that the extraordinary mixture of talent, intellectual and physical, which, during many decades, travelled under hatches to Australia, was of incalculable service to the colony.

Salcilles, remarking that transportation "is doubtless not a punishment in the classic sense of the word," regards it as "still a deterrent measure that should be administered in progressive stages. It is a punishment for incorrigibility, or, if it be preferred, of a series of infractions that prove incorrigibility. . . . It is clearly and primarily a preventive measure."

So far as our own country is concerned, the case for transportation is nowadays a slight one. If we restrict it to the incorrigibles, their numbers are few.

Much as we have to consider, we are not too seriously concerned about arguments for or against transportation.

9. By sifting and reducing the present population of prison, by establishing prisons of special kinds, by setting up labour colonies, and possibly in time by introducing some new mode of transportation, we should gradually make easier the vexed problem of the classification of prisoners. In 1879 a new system was begun in convict prisons under which all first offenders were placed in a class apart, and in 1897 this "Star" class was introduced in the local prisons. An excellent attempt to stop what has been called "the manufacture of criminals by the State," it seems not altogether to have succeeded. It receives praise from Lord William Nevill, and some strictures from Mr. Jabez Balfour. Mr. Balfour, who has "nothing but praise and approval for this idea," complains that "it is not properly carried out, because it is attempted under impossible conditions. I saw the present system in practice at Wormwood Scrubs, at Portland, and at Parkhurst, and in all those places, although I do not suggest that governors and officers did not do their best, yet in all cases it was a sorry failure, little better, in fact, than a make-believe. I go further, and confidently affirm that it will continue to be a failure so long as 'stars' and habitual criminals are herded together in one and the same prison."

Dr. Devon's remarks are as pointed on this as on every subject that he touches :—

"Men can only be placed in classes because of certain qualities they have in common. Every classification must neglect individual differences ;

and as it is these that mark men off from one another, any system or method of dealing with men will fail in so far as they are left out of account."

No plan of classification as yet has justified itself, but none has had as yet a respectable working chance. In the prisons of the future, as Mr. Holmes says, "classification will still have to play an important part; but classification will be no longer governed by the number of convictions a youth or adult has received, but by the real character, temperament, and ability of the prisoner."

In other words, the "individual differences" must as far as possible be taken into account. Individualisation is the only method.

10. The case of the hardy and promising "tough," not as yet a man, is receiving, I think, efficient care at Borstal. But Borstal is still a prison, and by and by we shall devise, I trust, better things than prison for the young. The George Junior Republic at Freeville, near Ithaca (U.S.A.), is a brilliant and original example. This is a complete Republic in miniature. The boys and girls, divided into so many families, are the citizens. About eighty boys and about seventy girls possess a territory of 300 acres, twenty-four buildings, a chapel, a prison, a school, and a court of justice. The "families," ten or a dozen members to each, are presided over by two grown-up folk acting as parents.

"The greater part of the population is engaged in agriculture, in cultivating the land belonging to the Republic, but a certain proportion adopt the arts and crafts necessary to every community:

joinery, bookbinding, printing, shoemaking, or shopkeeping. The colony coins its own money, and possesses a bank run by the boys themselves, where the colonists can deposit their savings. All labour and produce are paid for separately.”<sup>1</sup>

Boys and girls sit together in the Parliament, which makes laws, decrees holidays, organises games and entertainments, and arranges the public expenditure. Children are received in the colony over twelve years of age, and leave at about fifteen.

11. Tutelage and Probation : these, no doubt, are to be among the watchwords of the future. Both are closely associated with methods of individual treatment. “A public tutelage,” says De Quirós, “composed of competent men for the correction of the guilty is the only idea of punishment or of *positive* reprisals that the ethical principle can admit. It is only when the penitentiary system shall be based on this principle that it will become more equitable, humane, and efficacious than it is at present.” In the closing paragraph of “Modern Theories of Criminality” he predicts that “all forms [of punishment] that *cause human dignity to suffer* or submit it to shame and insult will be abolished. These having been eliminated, penal tutelage, through *indefinite*, *indeterminate*, or, at any rate, *conditional* sentence, will take charge of delinquents, and give to each what he needs by means of the consequent *individualisation*.”

Dr. Devon, stressing the point that prison ought merely to be a place of detention “in which offenders are placed till some proper provision is made for their

<sup>1</sup> Ferrero.

supervision and means of livelihood in the community," does not fail to draw the logical conclusion that, if this were recognised, "existing institutions would be transformed."

"Those who refuse by their actions to obey the law of the community, and to live therein without danger to their neighbours, would as at present be put in prison; but they would not be let out except on promise to remain on probation under the supervision of some person or persons until they had satisfied, not an institution official, but the public opinion of the district in which they were placed, that the restrictions put on their liberty could safely be withdrawn."

He would have all offenders on release, young and old, boarded out under proper care and guardianship in the community. Where are the guardians to be found? asks Dr. Devon. "They are to be found in all parts of the country when search is made for them"; and he commends the decent family as model. As models of the larger sort nothing, one may conjecture, will easily surpass the Hope Homes of Mrs. Ballington Booth; though in these, I fancy (save when the "Little Mother" herself is present), the influence of woman is wanting; and this, for the true and final healing of the criminal kind, I take to be absolutely indispensable.

Elsewhere in the United States systems of probation have been somewhat highly developed. Although this principle as an alternative of imprisonment is recognised in English law, its application here is less extensive, less formal, less in the nature of a system than in America. An English judge or magistrate has power to release certain offenders "under recog-



nisances upon probation of good conduct " ; and a person so released may be and often is taken in hand to excellent purpose by a missionary attending the court. But in America this practice is much more completely systematised, and its results are lauded. It is, or used to be, known as the Massachusetts System, but is not confined to that State. " Probation officers " are appointed whose duty it is to " inquire into the character and antecedents of prisoners *before trial*, and to report to the judge, and *after trial* to take charge of persons whom the judge shall place on probation and commit to their care." A few years ago the Hon. William E. Russell, then Governor of Massachusetts, in his inaugural address, recommended the adoption of the probation system in all courts of law throughout the Commonwealth. The recommendation was approved by the Legislature, and in May, 1891, an Act was passed appointing probation officers throughout the State.

The system may be briefly examined as it obtains in Boston. The Central Court of that city has six assistants (one a woman) working under a chief probation officer. The town is divided into districts, and a district is assigned to each assistant, who visits weekly every person in his or her charge, and reports once a month to the chief officer. This officer is in attendance at the city prison daily at 7 a.m., when he sees every prisoner arrested within the twenty-four hours, and submits all in turn to a kind of informal examination. Records of drunkenness are carefully sifted, and facts gathered at the prisoners' homes are laid before the judge when the case is called. A prisoner who, though addicted to drink, keeps in work and maintains his family, is generally placed on

probation ; but if, after this, he persists in drinking, he is rearrested, surrendered to the court, and sentenced. "If the person arrested is found to abuse or neglect his family, although his first arrest, he is sentenced. When the person arrested lives in another town, and his statements to the court are not altogether accepted, the case is continued long enough to write to the probation officer of the town for information. The probation officer, through daily intercourse with the prisoners, becomes familiar with the faces, and few old offenders pass through the court without being recognised, although giving different names and addresses." During probation for drunkenness the probationer must abstain from all intoxicating drink ; in a case of embezzlement or larceny, restitution, if possible, must be made ; in cases of non-support, the wife must accompany the husband to report to the probation officer. The probationary term is generally fixed at two months, and the probationer must report twice. Probation from one of the Superior Courts extends to twelve months, and involves a report every month. Defaulters and cases requiring to be surrendered are said to be a very small percentage. The probation officer must make a monthly report to the Prison Commissioners, setting forth the numbers and particulars of the probation cases, and the cost saved to the country for the maintenance in prison of so many persons of both sexes. Two years after the establishment of the system it was the subject of an inquiry by a Public Commission, whose report was that "it has worked with admirable results, and, as a means of dealing with certain classes of offenders, has succeeded beyond a question." The opinion of Chief Justice Parmenter, presiding judge of the

Boston Courts, is not less favourable. In many instances, he says, the families of probationers ask for an extension of the term of probation, "as the restraint of probation has the desired effect."

But, with Dr. Devon, I look to the general probation of offenders in our own country on some basis infinitely broader than this.

12. Visions of prison as a mere "place of detention" are not satisfying. They carry us but a little way. Imprisonment, of this kind or that, will be the penalty for many years to come. Our business is the improvement of it. Improvement lies in two directions: special prisons, and in these a special treatment.

## CHAPTER XXI

### SUMMARY

It has been for years a leading position of criminologists that crime is in great measure curable. Modern science perceives that crime has natural causes; perceives also "that penal or remedial treatment cannot possibly be indiscriminate and machine-like, but must be adapted to the causes, and to the man as affected by those causes." The Individualisation of treatment—"for that man, and for the cause of that man's crime"—is the doctrine for to-day, and may be the dogma of to-morrow.

In our system at the present day (a system susceptible of more or less complete change under new economic conditions), the central thing is Prison. Imprisonment as a penalty has failed. Proof abounds that it has neither reformed nor deterred the criminal. It could not possibly do so: deterrent punishment and a serious effort to reform the criminal are quite incompatible aims.

But we shall have to put up with prison and imprisonment for a long time to come. It is not possible in one generation, as De Fleury has observed, to modify in any very considerable degree our antique methods of repressing crime. To do the best we can with prison is our immediate duty. The state of prisons in this country is not favourable to experiments in individualisation, but the existing situation

can be sensibly and easily ameliorated. Prisons are crowded with the unfit. Thousands of persons are at this moment undergoing imprisonment who might be released, or paroled, or treated under supervision and probation, or cared for in hospital-prisons or lunatic asylums; a certain number might even be expatriated. It is a perfectly practicable measure to reduce the prison population by one-half. This done, a fresh campaign could forthwith be entered on.

If all forms of imprisonment are relatively bad, not all are equally bad. Some indeed are relatively very good. Wherever, in prison, punishment is intelligently graded, the result achieved is worth the trouble, which always is and must be considerable. Wherever the effort is seriously and rationally made to fortify the prisoner's will and character, develop his sense of responsibility, encourage his manhood, and accustom him by slow and prudent stages to liberty and the open air of social life, the conditions of his existence begin at once to return to normality, the shades of the prison-house begin to be dispelled. In countries widely separated there are at this day a few conspicuous and stimulating instances of prisons scientifically and humanely ordered. In Ireland fifty years ago was witnessed a noble effort to solve the world-problem of imprisonment. These things are for guidance to-day.

“Nature does not proceed by leaps, and the Modern School aims at effecting a revolution, not a revolt, in Penal Jurisprudence. It proposes therefore the gradual transformation of the present system, which is to be rendered as little injurious and as beneficial as possible. . . . The Modern

School proposes the cure of criminals by preventive and legislative measures.”<sup>1</sup>

The collective help of society is indispensable.

“It is a state of mind, not laws, that the world demands,” says Barrès, “a mental, not a material reformation.” This may come, if we wait for it.

*“Time and the fruitful hour are more than we.”*

<sup>1</sup> Ferrero.

THE END





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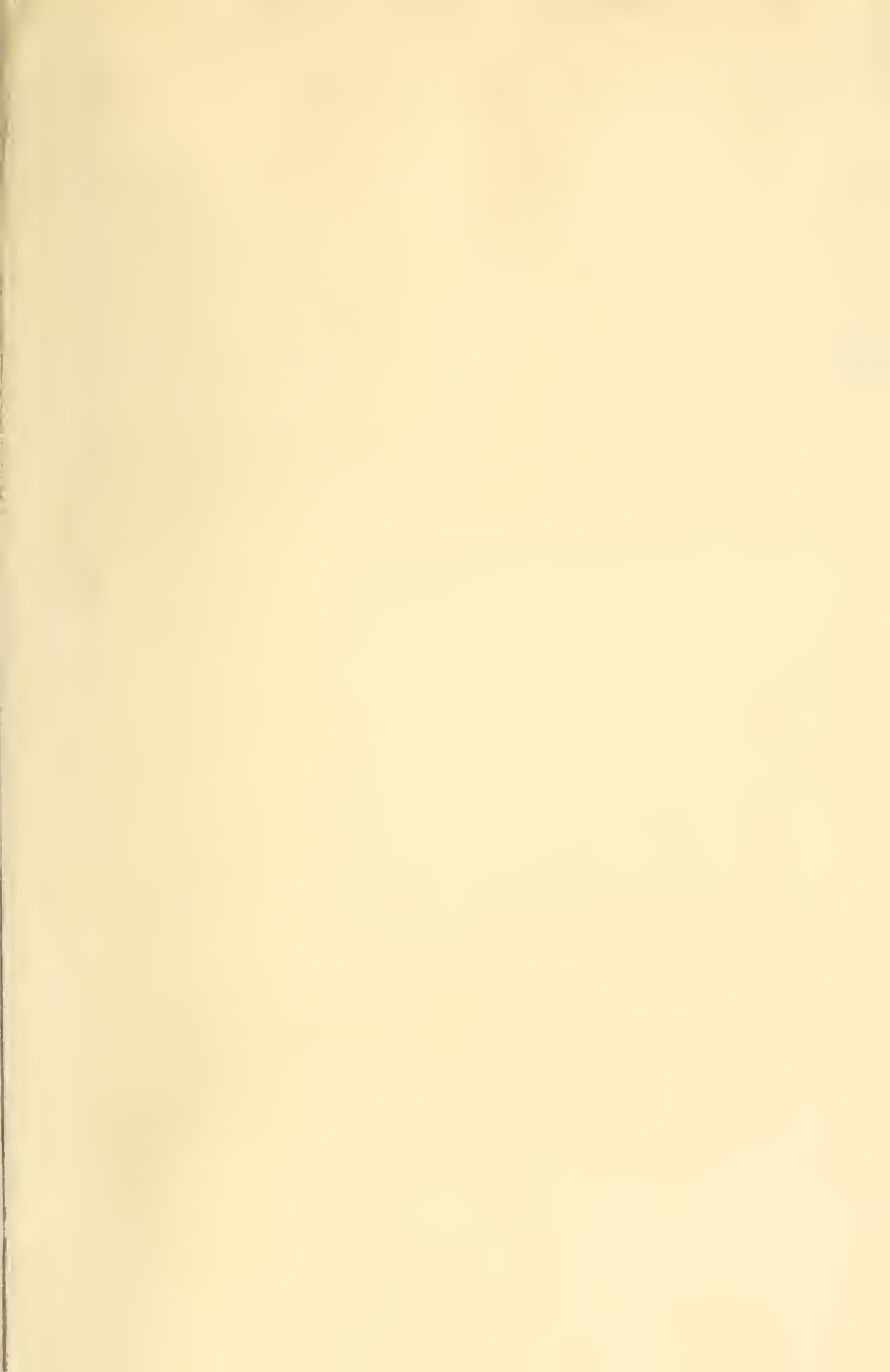
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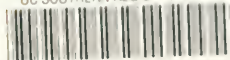
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